

EXHIBIT 53

PACHULSKI STANG ZIEHL & JONES LLP

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Ira D. Kharasch (CA Bar No. 109084) (*admitted pro hac vice*)

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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:)	
)	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹)	Case No. 19-34054-sgj11
)	
Debtor.)	
)	

**DEBTOR'S SECOND AMENDED WITNESS AND EXHIBIT LIST WITH
RESPECT TO EVIDENTIARY HEARING TO BE HELD ON JUNE 8, 2021**

Highland Capital Management, L.P. (the "Debtor") submits the following second amended witness and exhibit list with respect to the *Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders* [Docket

¹ The Debtor's last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.



No. 2255] (the “Show Cause Order”), which the Court set for hearing at 9:30 a.m. (Central Time) on June 8, 2021 (the “Hearing”) in the above-styled bankruptcy case (the “Bankruptcy Case”).

A. Witnesses:

1. James Dondero;
2. Mark Patrick;
3. Grant Scott (by deposition designation);
4. Gregory V. Demo;²
5. Any witness identified by or called by any other party; and
6. Any witness necessary for rebuttal.

B. Exhibits:

Letter	Exhibit	Offered	Admitted
1.	Debtor’s Motion for Entry of an Order Approving Settlement with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and Authorizing Actions Consistent Therewith [Docket No. 2237-1]		
2.	Declaration of John A. Morris in Support of Debtor’s Motion for Entry of an Order Approving Settlement with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and Authorizing Actions Consistent Therewith [Docket No. 2237-2]		
3.	Exhibit A, the [Proposed] Order on the Debtor’s Motion for Entry of an Order Approving Settlement with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and Authorizing Actions Consistent Therewith [Docket No. 2237-3]		
4.	James Dondero’s Objection to Debtor’s Motion for Entry of an Order Approving Settlement with HarbourVest [Docket No. 2237-4]		

² If needed, Mr. Demo will be called as a witness for the sole purpose of authenticating Exhibits 54 and 55, time records from Pachulski Stang Ziehl & Jones, LLP relating to the Show Cause Order.

Letter	Exhibit	Offered	Admitted
5.	Objection to Debtor's Motion for Entry of an Order Approving Settlement with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and Authorizing Actions Consistent Therewith [Docket No. 2237-5]		
6.	CLO Holdco's Objection to HarbourVest Settlement. [Docket No. 2237-6]		
7.	Notice of Deposition to James Dondero [Docket No. 2237-7]		
8.	Transcript of January 11, 2021 Deposition of Michael Pugatch [Docket No. 2237-8]		
9.	Omnibus Reply in Support of Debtor's Motion for Entry of an Order Approving Settlement with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and Authorizing Actions Consistent Therewith [Docket No. 2237-9]		
10.	Transcript of January 14, 2021 Hearing [Docket No. 2237-10]		
11.	Order Approving Debtor's Settlement with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and Authorizing Actions Consistent Therewith [Docket No. 2237-11]		
12.	Original Complaint (Charitable DAF Fund, L.P. v. Highland Capital Management, L.P., Case No. 21-cv-00842, U.S. District Court Northern District of TX) (GScott000389) [Dondero June 1, 2021 Deposition Exhibit 7] [Docket No. 2237-12]		
13.	Email string dated April 19, 2021, between counsel for the Debtor and counsel for the plaintiffs in the DAF Action [Docket No. 2237-13]		
14.	Second email string dated April 19, 2021, between counsel for the Debtor and counsel for the plaintiffs in the DAF Action [Docket No. 2237-14]		
15.	Order Approving Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course [Docket No. 2237-15]		
16.	Order Approving Debtor's Motion Under Bankruptcy Code Sections 105(a) and 363(b) for Authorization to Retain James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring		

Letter	Exhibit	Offered	Admitted
	Officer and Foreign Representative <i>Nunc Pro Tunc</i> to March 15, 2020 [Docket No. 2237-16]		
17.	Plaintiff's Motion for Leave to File First Amended Complaint (Charitable DAF Fund, L.P. v. Highland Capital Management, L.P., Case No. 21-cv-00842, U.S. District Court Northern District of TX) [Docket No. 2237-17]		
18.	CM/ECF Notice dated April 20, 2020 and lodged as Docket No. 8 in the DAF Action [Docket No. 2237-18]		
19.	Transcript of March 22, 2021 Hearing [Docket 2351-1]		
20.	Email from DAF counsel to Debtor's counsel dated April 20, 2021 [Docket 2351-2]		
21.	All communications between Debtor's counsel and the Bankruptcy Court courtroom deputy [Docket 2355-3]		
22.	Debtor's Motion for an Order to Enforce the Order of Reference [Docket 2351-4]		
23.	Grant Scott January 21, 2021 Deposition Transcript		
24.	Grant Scott June 1, 2021 Deposition Transcript		
25.	DAF/CLO Holdco Structure Chart (GScott000007) [Dondero June 1, 2021 Deposition Exhibit 1]		
26.	Amended and Restated Limited Liability Company Agreement of Charitable DAF GP, LLC, effective as of January 1, 2012 (PATRICK_000031) [Dondero June 1, 2021 Deposition Exhibit 2]		
27.	Amended and Restated Investment Advisory Agreement by and between Charitable DAF Fund, L.P., Charitable DAF GP, LLC, and HCMLP, effective July 1, 2014 (GScott000325) [Dondero June 1, 2021 Deposition Exhibit 3]		
28.	January 31, 2021 Meeting Appointment (GScott000011) [Dondero June 1, 2021 Deposition Exhibit 4]		
29.	Email chain re Grant Scott's notice of intent to resign (GScott000018) [Dondero June 1, 2021 Deposition Exhibit 5]		

Letter	Exhibit	Offered	Admitted
30.	Email chain re Highland Adherence Agreement in connection with HarbourVest shares (GScott000085) [Dondero June 1, 2021 Deposition Exhibit 6]		
31.	Email and attached A&R Service and Advisory Agreements and GP Resolutions (GScott000312) [Scott June 1, 2021 Deposition Exhibit 8]		
32.	Notice of CLO Holdco Settlement Agreement [Scott June 1, 2021 Deposition Exhibit 9]		
33.	Email between Grant Scott and Mark Patrick re Complaint (GScott000080) [Scott June 1, 2021 Deposition Exhibit 10]		
34.	Email chain re TerreStar Corporation Equity Investment and Residual Assets held by HOCF (GScott000138) [Scott June 1, 2021 Deposition Exhibit 11]		
35.	Email chain re request for information from Elysium Fund Management, Ltd. (GScott000361) [Scott June 1, 2021 Deposition Exhibit 12]		
36.	Assignment and Assumption of Membership Interest Agreement between Grant J. Scott and Mark E. Patrick dated March 24, 2021 (PATRICK_000006) [Scott June 1, 2021 Deposition Exhibit 13]		
37.	Written Resolutions of the Sole Director of the Company Dated March 25, 2021 (PATRICK_000003) [Scott June 1, 2021 Deposition Exhibit 14]		
38.	Written Shareholder Resolutions of the Sole Shareholder of the Company Made on March 24, 2021 (PATRICK_000012) [Scott June 1, 2021 Deposition Exhibit 15]		
39.	Written Shareholder Resolutions of the Sole Shareholder of the Company Made on March 31, 2021 (PATRICK_000001) [Scott June 1, 2021 Deposition Exhibit 16]		
40.	Written Shareholder Resolutions of the Sole Shareholder of the Company Made on April 2, 2021 (PATRICK_000002) [Scott June 1, 2021 Deposition Exhibit 17]		
41.	Amended and Restated Investment Advisory Agreement by and between Charitable DAF Fund, L.P., Charitable DAF GP, LLC, and HCMLP, effective July 1, 2014 (PATRICK_000923)		

Letter	Exhibit	Offered	Admitted
42.	Amended and Restated Service Agreement by and among HCMLP, Charitable DAF Fund, L.P., and Charitable DAF GP, LLC , effective July 1, 2014 (PATRICK_000938)		
43.	Email from Mark Patrick to Grant Scott dated April 6, 2021 re Urgent Questions (PATRICK_001129)		
44.	Original Complaint (Docket No. 1, PCMG Trading Partners XXIII, LP v. Highland Capital Management, L.P., Case No. 21-cv-01169, U.S. District Court Northern District of TX)		
45.	Defendant's Motion For Leave to Amend Answer (Docket No. 32, Highland Capital Management, L.P. v. Highland Capital Management Fund Advisors, L.P., Adv. Pro. No. 21-03004)		
46.	Email chain re NDA for D&O Insurance Quote (GScott000172)		
47.	Check Request dated April 7, 2021 (D1 Landscape & Irrigation) (GScott000354)		
48.	Check Request dated April 7, 2021 (Sanders Lawn & Maintenance) (GScott000355)		
49.	Check Request dated April 7, 2021 (BB Services) (GScott000358)		
50.	Highland Capital Management, L.P.'S Notice of Amended Subpoena to Grant Scott [Docket No. 2366]		
51.	Certificate of Service for Notice of Deposition of Grant Scott (Docket No. 41, Highland Capital Management, L.P. v. Highland Capital Management Fund Advisors, L.P., et al., Adv. Pro. No. 21-03000)		
52.	Email re Zoom Instructions for June 1, 2021 Deposition of Grant Scott		
53.	Email re Zoom Instructions for January 21, 2021 Deposition of Grant Scott		
54.	Pachulski Stang Billing Detail (April 18 – April 30, 2021)		
55.	Pachulski Stang Billing Detail (May 1 – June 7, 2021)		

Letter	Exhibit	Offered	Admitted
56.	Any document entered or filed in the Bankruptcy Case, including any exhibits thereto		
57.	All exhibits necessary for impeachment and/or rebuttal purposes		
58.	All exhibits identified by or offered by any other party at the Hearing		

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Dated: June 16, 2021.

PACHULSKI STANG ZIEHL & JONES LLP

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Ira D. Kharasch (CA Bar No. 109084)
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-and-

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Counsel for Highland Capital Management, L.P.

EXHIBIT 23

1 GRANT SCOTT - 1/21/2021

2 IN THE UNITED STATES BANKRUPTCY COURT

3 FOR THE NORTHERN DISTRICT OF TEXAS

4 IN RE:)

5) Chapter 11

6 HIGHLAND CAPITAL MANAGEMENT,)

7 L.P.) Case No.

8) 19-34054-sgj11

9 Debtor.)

10)

11 HIGHLAND CAPITAL MANAGEMENT,)

12 L.P.,)

13 Plaintiff,)

14) Adversary

15 vs.) Proceeding No.

16) 21-03000-sgj

17 HIGHLAND CAPITAL MANAGEMENT)

18 FUND ADVISORS, L.P.; NEXPOINT)

19 ADVISORS, L.P.; HIGHLAND)

20 INCOME FUND; NEXPOINT)

21 STRATEGIC OPPORTUNITIES FUND;)

22 NEXPOINT CAPITAL, INC.; and)

23 CLO HoldCo, LTD.,)

24)

25 Defendants.)

26

27 VIDEOCONFERENCE DEPOSITION OF Grant SCOTT

28 Thursday, 21st of January, 2021

29

30

31

32

33 Reported by: Lisa A. Wheeler, RPR, CRR

34 Job No: 188910

35

1 GRANT SCOTT - 1/21/2021

2 January 21, 2021

3 2:02 p.m.

4

5

6 Videoconference deposition of Grant

7 SCOTT, pursuant to the Federal Rules of

8 Civil Procedure before Lisa A. Wheeler,

9 RPR, CRR, a Notary Public of the State of

10 North Carolina. The court reporter

11 reported the proceeding remotely and the

12 witness was present via videoconference.

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1 GRANT SCOTT - 1/21/2021

2 REMOTE APPEARANCES:

3 PACHULSKI STANG ZIEHL & JONES

4 Attorneys for Debtor

5 780 Third Avenue

6 New York, NY 10017

7 BY: JOHN MORRIS, ESQ.

8

9 LATHAM & WATKINS

10 Attorneys for UBS

11 885 Third Avenue

12 New York, NY 10022

13 BY: SHANNON McLAUGHLIN, ESQ.

14

15 SIDLEY AUSTIN

16 Attorneys for the Creditors Committee

17 2021 McKinney Avenue

18 Dallas, TX 75201

19 BY: PENNY REID, ESQ.

20 ALYSSA RUSSELL, ESQ.

21 PAIGE MONTGOMERY, ESQ.

22

23

24

25

1 GRANT SCOTT - 1/21/2021

2 REMOTE APPEARANCES: (Continued)

3 KING & SPALDING

4 Attorneys for Highland CLO Funding, Ltd.

5 500 West 2nd Street

6 Austin, TX 78701

7 BY: REBECCA MATSUMURA, ESQ.

8

9 K&L GATES

10 Attorneys for Highland Capital Management

11 Fund Advisors, L.P., et al.

12 4350 Lassiter at North Hills Avenue

13 Raleigh, NC 27609

14 BY: A. LEE HOGEWOOD, III, ESQ.

15 EMILY MATHER, ESQ.

16

17 HELLER DRAPER & HORN

18 Attorneys for The Dugaboy Investment Trust

19 and The Get Good Trust

20 650 Poydras Street

21 New Orleans, LA 70130

22 BY: MICHAEL LANDIS, ESQ.

23

24

25

1 GRANT SCOTT - 1/21/2021

2 REMOTE APPEARANCES: (Continued)

3 KANE RUSSELL COLEMAN & LOGAN

4 Attorneys for Defendant CLO HoldCo Limited

5 Bank of America Plaza

6 901 Main Street

7 Dallas, TX 75202

8 BY: BRIAN CLARK, ESQ.

9 JOHN KANE, ESQ.

10

11 ALSO PRESENT: La Asia Canty

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1 GRANT SCOTT - 1/21/2021

2 GRANT SCOTT,

3 called as a witness, having been duly sworn
4 by a Notary Public, was examined and
5 testified as follows:

6 MR. MORRIS: Good afternoon. My
7 name is John Morris. I'm an attorney with
8 Pachulski Stang Ziehl & Jones, a law firm
9 who represents the debtor in the bankruptcy
10 known as In Re: Highland Capital
11 Management, L.P., and we're here today for
12 the deposition of Grant Scott.

13 Before I begin, I would just like to
14 have confirmation on the record that
15 everybody here who's representing their
16 respective parties agrees that this
17 deposition can be used in evidence in any
18 subsequent hearing, notwithstanding the
19 fact that it's being conducted remotely,
20 and that the witness is not in the same
21 room as the court reporter.

22 Does anybody have an objection to
23 the admissibility of the transcript subject
24 to any reservation of -- of actual
25 objections on the record to using this

1 GRANT SCOTT - 1/21/2021

2 transcript going forward?

3 Okay. Nobody's spoken up, so I --

4 I'd like to begin.

5 EXAMINATION

6 BY MR. MORRIS:

7 Q. Good afternoon, Mr. Scott. As I
8 mentioned, my name is John Morris, and we're
9 here for your deposition today. Have you ever
10 been deposed before?

11 A. On two occasions.

12 Q. And -- and when did the -- when did
13 those depositions take place?

14 A. This past October and maybe six to
15 eight years ago.

16 Q. Okay. Can you just tell me
17 generally what the subject matter was of the
18 deposition this past October.

19 A. It was relating to Jim Dondero's --
20 it was a family law issue in -- in -- with
21 respect to Jim Dondero.

22 Q. Okay. And did you testify in a
23 courtroom, or was it a deposition like this?

24 A. I -- right here, actually.

25 Q. Okay. Super. And -- and what about

1 GRANT SCOTT - 1/21/2021

2 the -- the deposition six to eight years ago,
3 do you have a recollection as to what that was
4 about?

5 A. Yeah. It was a -- it was a patent I
6 wrote for Samsung Electronics.

7 Q. Okay.

8 A. And as being the person that I --
9 that wrote it and the patent was in litigation,
10 not -- not being handled by me, but by virtue
11 of having written the patent, I was -- I was
12 deposed --

13 Q. Okay. So you --

14 A. -- on the -- on the patent.

15 Q. Okay. So you've had a little bit of
16 experience with depositions. But just
17 generally speaking, I'm going to ask you a
18 series of questions. It's very important that
19 you allow me to finish my question before you
20 begin your answer.

21 Is that fair?

22 A. Absolutely.

23 Q. And I will certainly try to extend
24 the same courtesy to you, but if I -- if I step
25 on your words, will you let me know that?

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2 A. Okay.

3 Q. And if there's anything that I ask
4 that you don't understand, will you let me know
5 that as well?

6 A. Yes. I'll try -- I'll do my best.

7 Q. Okay. So this is a virtual
8 deposition. We're not in the same room. I am
9 going to be showing you documents today. The
10 documents will be put up on the screen. This
11 isn't a -- a trick of any kind. If at any time
12 you see a document up on the screen and either
13 you believe or you have any reason to want to
14 read other portions of the document, will you
15 let me know that?

16 A. Yes, I -- yes, I will. Uh-huh.

17 Q. With respect to the Dondero family
18 matter, I really don't want to go into the
19 substance of that, but I do want to know
20 whether you testified voluntarily in that
21 matter or whether you -- whether you testified
22 pursuant to subpoena.

23 A. I would have done that, but the
24 first time I found out about it was a -- was a
25 subpoena that I received. I wasn't given the

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2 choice.

3 Q. Okay. And do you recall who served
4 the subpoena on you? Actually, let me ask a
5 different question because I'm really not
6 interested in the -- in the details.

7 Did Mr. Dondero serve that subpoena
8 on you or did somebody else?

9 A. His counsel for his ex-wife.

10 Q. Mr. -- so -- so the lawyer acting on
11 behalf of Mr. Dondero's ex-wife served you with
12 the subpoena?

13 A. Correct.

14 Q. Okay. You're familiar with an
15 entity called CLO HoldCo Limited; is that
16 right?

17 A. Yes.

18 Q. Do you know what that entity is?

19 A. Yes.

20 Q. What -- what -- can you describe for
21 me what CLO HoldCo Limited is.

22 A. It's a holding company of assets
23 including collateralized loan obligation-type
24 assets. That's a portion of the overall
25 portfolio. It's an organization that is

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2 integrated with other entities as part of a
3 charitable -- loosely what we -- what we refer
4 to as a charitable foundation equivalent.
5 Yeah.

6 Q. All right. We'll -- we'll get into
7 some detail about the corporate structure in a
8 moment. Do you personally play any role at CLO
9 HoldCo Limited?

10 A. Yes. My technical title is
11 director, but I -- I don't necessarily know
12 specifically what that title means other than I
13 act, as I understand it, as -- as a trustee for
14 those -- for those assets.

15 Q. And where did you get that
16 understanding?

17 A. Approximately ten years ago from the
18 group that -- that set up the hierarchy.

19 Q. And which group set up the
20 hierarchy?

21 A. Employees at Jim Don- -- as I
22 understand it, employees of Highland along with
23 outside counsel, as I understand it, and also,
24 I guess, input from -- from Jim Dondero.

25 Q. At the time that you assumed the

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2 role of director of CLO HoldCo Limited, was
3 that entity already in existence?

4 A. I believe so. I'm not certain. I'm
5 not certain.

6 Q. What are your duties and
7 responsibilities as a director of CLO HoldCo
8 Limited?

9 A. Well, my day-to-day responsibilities
10 are to interface with -- with the manager of
11 the -- of the assets of CLO. I do have some
12 role in -- with respect to some of the entities
13 that are -- I -- I have a limited role with
14 respect to a subset of the charitable
15 foundations that receive money from the CLO
16 HoldCo structure, which is commonly referred to
17 as the DAF. There's -- sometimes those are
18 used interchangeably.

19 Q. What terms are used interchangeably?

20 A. Well, the DAF and CLO HoldCo are
21 frequently -- by -- by other people they're --
22 it's the short -- it's the -- I guess it's
23 easier to use the acronym DAF than CLO HoldCo
24 Limited, so I'm frequently having to -- there
25 is a DAF entity so -- that's above -- above CLO

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2 in terms of the management, and so it's
3 frequently confusing and I'm having to clarify
4 at times which entity we're talking about,
5 but -- but other parties frequently use those
6 terms interchangeably.

7 Q. Okay.

8 MR. MORRIS: Lisa, when we use the
9 phrase DAF, because you'll hear that a lot,
10 it's all caps, D-A-F.

11 BY MR. MORRIS:

12 Q. You mentioned that you interface
13 with the manager of assets of CLOs. Do I have
14 that right?

15 A. Well, of all the assets.

16 Q. Okay. Who is the manager of the
17 assets that you're referring to?

18 A. Highland Capital Management.

19 Q. Highland Capital Management manages
20 all of the assets -- withdrawn.

21 Is it your understanding that
22 Highland Capital Management manages all the
23 assets that are owned by CLO HoldCo Limited?

24 A. Yes.

25 Q. Who makes the investment decisions

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2 on behalf of CLO HoldCo Limited?

3 A. Highland -- those managers that you
4 mentioned.

5 Q. Okay. I didn't mention anybody in
6 particular.

7 A. Oh, I'm sorry. The -- the -- the
8 money manager -- could you repeat that
9 question? I'm sorry. I'm so sorry.

10 Q. Can you just -- can you just
11 identify for me the person who makes investment
12 decisions on behalf of CLO HoldCo Limited.

13 A. It's -- well, it's -- it's persons
14 as I understand it. I inter- -- interface with
15 a -- with a group, but it's -- it's Highland
16 Capital employee -- Highland Capital Management
17 employees.

18 Q. Okay. Can you just name any of
19 them, please.

20 A. Hunter Covitz, Jim Dondero. Mark
21 Okada's no longer there, but I believe he was
22 involved, and there are others that I interface
23 with.

24 Q. Can you -- can you recall the name
25 of anybody other than Mr. Okada and Mr. Dondero

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2 and Mr. Covitz?

3 A. Yeah. Over the years I've worked
4 with Tim Cournoyer, Thomas Surgent, but I
5 think -- I think that's the core -- the core
6 group.

7 Q. All right. And is there anybody
8 within that core group who has the final
9 decision-making authority concerning the
10 investments in CLO HoldCo Limited?

11 A. I don't -- I don't know. I'm sorry.
12 Say that again. I just want to -- I'm sorry.
13 I'm trying to be -- I'm not trying to -- I'm
14 trying to be --

15 Q. I understand. And --

16 A. Sorry. If you could just repeat it.

17 Q. Sure. Is there any particular
18 person who has the final decision-making
19 authority for investments that are being made
20 on behalf of CLO HoldCo Limited?

21 A. Amongst that group I am -- I am not
22 sure.

23 Q. Okay. So are there any other
24 directors of CLO HoldCo besides yourself?

25 A. No.

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2 Q. Is it fair to say that you do not
3 make decisions, investment decisions, on behalf
4 of CLO HoldCo Limited?

5 A. Yes.

6 Q. Does CLO HoldCo Limited have any
7 employees that you know of?

8 A. No.

9 Q. Does CLO HoldCo have any --
10 withdrawn.

11 Does CLO HoldCo Limited have any
12 officers that you know of?

13 A. No.

14 Q. So am I correct that you're the only
15 representative in the world of CLO HoldCo in
16 terms of being a director, officer, or
17 employee?

18 A. Yes.

19 Q. Do you receive any compensation from
20 CLO HoldCo for your services as the director?

21 A. I do now.

22 Q. When did that begin?

23 A. I believe in the middle of 2012.

24 Q. Okay. And had you served as a
25 director prior to that time without

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2 compensation?

3 A. Yes.

4 Q. And have you been the sole director
5 of CLO HoldCo Limited since the time of your
6 appointment approximately ten years ago?

7 A. Yes.

8 Q. Nobody else has served in that
9 capacity; is that right?

10 A. That is correct.

11 Q. There have been no employees or
12 officers of that entity during the time that
13 you've served as director, correct?

14 A. Yes.

15 Q. Do you know who formed CLO HoldCo
16 Limited?

17 A. I do not.

18 Q. Do you know why CLO HoldCo Limited
19 was formed?

20 A. I believe so.

21 Q. Can you explain to me why -- your
22 understanding as to why CLO HoldCo was formed.

23 A. So as I understand things, Jim
24 Dondero wanted to create a charitable
25 foundation-like entity or entities, and tax

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2 people particularly, I guess, finance people,
3 lawyers, they created this network of entities
4 to carry out that charitable goal. At one
5 point, I thought it was a novel type of
6 institution, if you want to call it, or a
7 novel -- novel type of group of entities, but
8 over time, I came to understand that although
9 not cookie cutter, it -- it follows a general
10 arrangement of entities for legal and tax
11 purposes, compliance purposes, IRS purposes,
12 various insulating purposes to maintain -- or
13 to meet the necessary requisites to carry out
14 that charitable function.

15 Q. When did you come to that
16 understanding?

17 A. Over the last couple of years. I
18 periodically have to refresh my recollection.
19 It's -- it's fairly complex.

20 Q. Okay. In your capacity as the sole
21 director of CLO HoldCo Limited, do you report
22 to anybody?

23 A. No.

24 Q. Other than interfacing with the
25 manager of the assets of the CLO, do you have

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2 any other duties and responsibilities as a
3 director of CLO HoldCo Limited?

4 A. Yes. Sorry. My mouth is a little
5 dry.

6 Q. By the way, if you ever need to take
7 a break, just let me know.

8 A. Okay. Thank you. Now I forgot your
9 question. The -- the -- the --

10 Q. I understand.

11 A. The answer -- the -- the answer is
12 yes. I -- why don't you ask -- ask your
13 question again. I'm sorry.

14 Q. Sure. Other than interfacing with
15 the manager of the assets of the CLO, do you
16 have any other duties and responsibilities as
17 the sole director of CLO HoldCo Limited?

18 A. Yes. So Highland Capital because of
19 its -- the way it's set up to manage or service
20 CLO HoldCo and the DAF, it has a relatively
21 large group of people that I have to interface
22 with to do everything from -- everything from
23 soup to nuts. Finances and the money
24 management is one aspect, but most of my
25 time -- on a day-to-day or week-to-week basis,

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2 most of my time is spent working with the
3 various compliance and other people for
4 addressing issues of get- -- you know, getting
5 taxes filed. It runs -- it runs the gamut of
6 every aspect of the organization being -- being
7 handled by Highland.

8 Q. Okay.

9 A. You know, unlike -- unlike my
10 financial -- unlike a financial planner that
11 might, you know, manage assets, they -- they do
12 it all, and I interface with them regularly to
13 maintain -- mostly to deal with compliance
14 issues.

15 Q. Who's the com- -- is there a person
16 who's in charge of compliance?

17 A. I believe Thomas Surgent. I
18 mentioned him. I believe he also has that
19 role, but it's -- you know, they do have
20 turnover, I guess, in that. It's -- I guess
21 they refer to it as the back office. I've
22 heard that term be used, but -- basically, it's
23 a large number of people that have changed over
24 time, but it's -- it's more -- I believe it's
25 more than one collectively.

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2 Q. How much time do you devote -- you
3 know, can you estimate either on a weekly or a
4 monthly basis how many -- how much time do you
5 devote to serving as the director of CLO HoldCo
6 Limited?

7 A. I thought about that. Well, let --
8 let's put it this way: There was the
9 prebankruptcy time I spent per day, and then
10 there was the postbankruptcy time I've spent
11 per -- per -- or per week -- excuse me, or
12 per -- I've estimated it as probably a day --
13 it's so intermittent it's -- it's hard, okay?
14 It's -- I don't dedicate my Mondays to only
15 doing that and then Tuesday through Friday I
16 don't, right? I -- it's -- I have to piece
17 together everything that occurs during the
18 week. There might be some weeks where I don't
19 have any contact. There might be every day of
20 the week I have multiple contact. There may be
21 days where from morning to night there is so
22 much contact, it precludes me from doing
23 anything else meaningfully. So -- but I would
24 estimate it's probably three or four -- maybe
25 three days, four days a month when things are

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2 going well.

3 Q. And -- and I think you -- you
4 testified just now that there was kind of a
5 difference between prebankruptcy and
6 postbankruptcy. Do I have that right?

7 A. Yes.

8 Q. And can you tell me -- is it fair to
9 say that before the bankruptcy, you didn't
10 devote much time to CLO HoldCo, or do I have
11 that wrong?

12 A. Well, I -- just the time that --
13 that I mentioned just -- I'm sorry. The -- the
14 time I just mentioned now when you asked me,
15 that was the pre period. Excuse me. I haven't
16 talked about the postbankruptcy period.

17 Q. So are you -- are you -- are you
18 devoting more time or less time since the
19 bankruptcy?

20 A. Much more.

21 Q. Much more since the bankruptcy
22 filing?

23 A. Yes.

24 Q. And so why did the bankruptcy filing
25 cause you to spend more time as a director of

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2 CLO HoldCo Limited?

3 A. Well, initially, and this would
4 be -- this would be late 2019, it was --
5 aft- -- after the bankruptcy was -- was filed
6 and I obtained counsel, who are on the phone
7 now -- or in this deposition now, excuse me,
8 that was -- that transition occurred because
9 CLO was a debtor -- excuse me, a creditor to --
10 to the debtor and had to take steps to
11 establish its -- its claim. So if I understand
12 the -- things correctly, the -- the debtor
13 identified as part of the filing -- I don't
14 know how bankruptcy works, but if I under- --
15 if my recollection is correct, there's a
16 hierarchy from biggest to smallest, and we were
17 relatively high up. And when I say we or I,
18 I -- I just mean CLO was relatively high up.
19 And so initially, for the first period of so
20 many months, the -- the exclusive focus was on
21 our position as a creditor -- a creditor having
22 a certain claim against a debtor.

23 Q. Can you describe for me your
24 understanding of the nature of the claim
25 against the debtor.

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2 A. It was various obligations that were
3 owed to -- to CLO, things that had been
4 previously donated or -- or agreements that had
5 been set up that transferred certain assets,
6 and it was basically the -- the -- the amounts
7 were derived from those sorts of transactions.

8 Q. Okay. You're a patent lawyer; is
9 that right?

10 A. I -- I'm exclusively a patent
11 attorney, yes.

12 Q. Have you been a patent lawyer on an
13 exclusive basis since the time you graduated
14 from law school?

15 A. From law school, yes.

16 Q. Can you just describe for me
17 generally your educational background.

18 A. So I'm an electrical engineer by
19 training. I graduated from the University of
20 Virginia in 1984. I then went to graduate
21 school at the University of Illinois. I
22 received my master's degree in 1986, and then I
23 immediately joined IBM Research at the Thomas
24 Watson Institute in New York where I was a --
25 my title was research scientist, but I was -- I

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2 guess I was more of a research engineer, if
3 that matters. And I did that until I
4 transitioned -- or I began law school in the
5 fall of 1988, and then I graduated law school
6 in May of 1991.

7 Q. And where did you go to law school?

8 A. University of North Carolina.

9 Q. Do you have any formal training in
10 investing or finance?

11 A. I do not.

12 Q. Do you hold yourself out as an
13 expert in any field of investment?

14 A. None -- none at all.

15 Q. Have you had any formal training
16 with respect to compliance issues? You
17 mentioned compliance issues earlier.

18 A. No.

19 Q. Now, do you have any knowledge about
20 compliance rules or regulations?

21 A. Minimal that I've -- that have
22 occurred organically but -- but generally, no.

23 Q. You don't hold yourself out as an
24 expert in com- -- in the area of compliance,
25 correct?

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2 A. No. No. I'm -- no.

3 Q. Do you have any particular
4 investment philosophy or strategy?

5 MR. CLARK: I'm going to object to
6 the form of the question. And, John,
7 can -- can we get an agreement that -- I
8 know you were objecting just simply on the
9 form basis yesterday -- that objection to
10 form is sufficient today?

11 MR. MORRIS: Sure.

12 MR. CLARK: Okay. And I object to
13 form. Grant, you can answer to the extent
14 you can.

15 THE WITNESS: I forget the question
16 now that you interrupted. I'm sorry.

17 BY MR. MORRIS:

18 Q. So -- so -- and I'm going to ask a
19 different question because in hindsight, that's
20 a good objection.

21 In your capacity as the director
22 of -- withdrawn.

23 Do the employees of Highland that
24 you identified earlier, do they make investment
25 decisions on behalf of CLO HoldCo Limited

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2 without your prior knowledge on occasion?

3 A. On occasion, they do.

4 Q. So there's no rule that your prior
5 approval is needed before investments are made,
6 right?

7 A. I don't know whether they have an
8 internal guideline as to the amount that
9 triggers when they get in touch with me or
10 whether it's a new -- a change, something new,
11 or -- versus recurring. So I don't -- I don't
12 know what they use internally for that metric.

13 Q. Okay. Are you aware of any
14 guideline that was ever used by the Highland
15 employees whereby they were required to obtain
16 your consent prior to effectuating transactions
17 on behalf of CLO HoldCo Limited?

18 A. I understand there was one or more,
19 but I do not know that.

20 Q. Okay. Did you ever see such a
21 policy or list of rules that would require your
22 prior consent before the Highland employees
23 effectuated transactions on behalf of CLO
24 HoldCo Limited?

25 A. Possibly some time ago, but I -- I

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2 don't recall.

3 Q. Okay. So -- withdrawn. I'll --

4 I'll go on.

5 How did you come to be the director
6 of CLO HoldCo?

7 A. I was asked either by Jim Dondero
8 or -- directly or indirectly by -- by Jim
9 Dondero.

10 Q. And who is Jim Dondero?

11 A. Well, at the time, he was the head
12 or one of the heads of Highland Capital
13 Management, a friend of mine.

14 Q. How long have you known Mr. Dondero?

15 A. Since high school so that -- 1976.

16 Q. Where did you and Mr. Dondero grow
17 up?

18 A. In northern New Jersey.

19 Q. Do you consider him among the
20 closest friends you have?

21 A. I think he is my closest friend.

22 Q. Did you two go to college together?

23 A. We actually -- for the last -- last
24 two years I was at UVA, University of Virginia,
25 excuse me, he and I were -- were at UVA. So we

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2 did not start out at UVA initially, but -- but
3 we both transferred -- I transferred my
4 sophomore year. I was actually a chemical
5 engineer at the University of Delaware when I
6 transferred in, and then he transferred in his
7 junior year. So we were there at college for
8 two years.

9 Q. And -- and based on your
10 relationship with him, is it your understanding
11 that one of the reasons he chose to transfer to
12 UVA is -- is to -- because you were there?

13 A. Oh, no. He transferred -- he --
14 he -- he transferred there because of the -- so
15 he went to the University of -- he -- he went
16 to Virginia Tech University, which is more
17 known as being an engineering school, which I
18 might have wanted to go to, and less a finance
19 business school. And if I understand things
20 correctly, and I believe I do, he transferred
21 to UVA because of the well-known
22 business/finance program, accounting program.

23 Q. And did you -- did you and
24 Mr. Dondero become roommates at UVA?

25 A. We weren't roommates, but we lived

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2 in the -- we were housemates. I'm sorry. We
3 were housemates.

4 Q. So you shared a house together. How
5 would you describe your relationship with
6 Mr. Dondero today?

7 A. It's -- it's been strained a while,
8 for some time, but -- but generally, very good.
9 Good to very good.

10 Q. Without -- without getting personal
11 here, can you just generally identify the
12 source of the strain that you described.

13 A. This -- I think it would be fair to
14 say that this bankruptcy, particularly events
15 in 2020 so some months after the bankruptcy was
16 declared, things have become -- we -- we still
17 have a close friendship, but -- but things
18 are -- are a bit -- are a bit more difficult.

19 Q. Were you ever married?

20 A. I've never been married.

21 Q. Did you serve as Mr. Dondero's best
22 man at his wedding?

23 A. I did.

24 Q. Is it fair to say that -- that
25 Mr. Dondero trusts you?

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2 MR. CLARK: Objection, form.

3 BY MR. MORRIS:

4 Q. Withdrawn.

5 Do you believe that Mr. Dondero
6 trusts you?

7 A. I do.

8 Q. Over the years, is it fair to say
9 that Mr. Dondero has confided in you?

10 MR. CLARK: Objection, form.

11 BY MR. MORRIS:

12 Q. You can answer if you understand it.

13 A. I think so.

14 Q. I -- I -- what's your answer? You
15 think so?

16 A. Maybe you can de- -- I think of
17 confide as -- could you define confide, please.

18 Q. Sure. Is it -- is it fair to say
19 that over the -- let me -- you've known
20 Mr. Dondero for almost 45 years, right?

21 A. Yes.

22 Q. And you consider him to be your
23 closest friend in the world, right?

24 A. Yes.

25 Q. And is it fair to say over the

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2 course of those 45 years, Mr. Dondero has
3 shared confidential information with you that
4 he didn't want you to reveal publicly to other
5 people?

6 A. Yes.

7 Q. And is it your understanding that
8 because of the nature of your relationship with
9 him, he asked you to serve as the director of
10 CLO HoldCo Limited?

11 A. Yes. I believe it's because he --
12 he trusted -- trusted me with -- with assets
13 relating to his charitable vision. I -- I --
14 yeah. Yes.

15 Q. And is it your understanding that he
16 thought you would help him execute his
17 charitable vision?

18 A. That was the point of attraction
19 initially. It wasn't for money. I wasn't
20 being paid. That was -- the charitable mission
21 was the attraction.

22 Q. Does Mr. Dondero play any role in
23 the management of the CLO HoldCo Limited asset
24 pool?

25 MR. CLARK: Objection, form.

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2 A. I'm sorry. Could you repeat that?

3 My -- my screen went small and then big again.

4 I was distracted.

5 Q. What role does Mr. Dondero play with
6 respect to the management of the CLO HoldCo
7 Limited asset pool?

8 MR. CLARK: Objection, form.

9 A. He is with the company that manages
10 that asset pool. He's one of the people I
11 named previously as managing those assets.

12 Q. He is -- he -- he is the -- do you
13 understand that he has the final
14 decision-making power with respect to the
15 management of the assets that are held by CLO
16 HoldCo Limited?

17 MR. CLARK: Objection, form.

18 A. I believe I ansel -- answered that
19 previously. I -- I don't know who has -- for
20 certainty I do not know who has that within
21 that company. I don't. If -- if -- I -- I
22 don't know, consistent with my prior answer.

23 Q. Did you ever ask anybody who had the
24 final decision-making authority for investments
25 on behalf of CLO HoldCo Limited?

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2 A. I -- I did not.

3 Q. Did you ever make a decision on
4 behalf of -- withdrawn.

5 In your capacity as a director --
6 withdrawn.

7 In your capacity as the sole
8 director of CLO HoldCo Limited, can you think
9 of any decision that you've ever made that
10 Mr. Dondero disagreed with?

11 A. Since -- prior to the bankruptcy,
12 no, not that I'm aware of.

13 Q. And since the bankruptcy?

14 A. There are decisions that I've made
15 that he's disagreed with.

16 Q. Can you identify them?

17 A. Yes.

18 Q. Please do so.

19 A. Okay. So the reason I'm pausing is
20 I'm trying to put these in chronological order
21 and, at the same time, identify maybe some of
22 the more important ones versus the lesser
23 important ones. One of the decisions I made
24 related to a request that I received from the
25 independent board of Highland. I don't know

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1
2 how the request was transmitted to me, but I
3 believe the way it played out is as follows: I
4 believe I was asked to call Jim Seery, and the
5 other -- and Russell Nelms, and the third
6 independent director, I believe his name is
7 John. I -- I forget right now what his last
8 name is. They were in New York, said they were
9 in a conference room. I called in. They were
10 very pleasant. They identified who they were,
11 and they had a request, and the request was
12 that I agree to a transfer -- or that I -- that
13 I agree to allow certain assets that were not
14 Highland's assets but they were CLO's as- --
15 assets -- apparently, there was no dispute
16 about that at any point in time, but that I
17 agree to allow certain assets that were due CLO
18 to be transferred to the registry of the
19 bankruptcy court. And either on that call I
20 immediately agreed or ended the call, called my
21 attorney, and then immediately agreed. It was
22 a very -- I accommodated the request quickly.
23 Q. Okay. And can you just tell me at
24 what point in time you spoke with Mr. Dondero,
25 and what did he say that you recall?

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2 A. I don't know when he became aware of
3 that decision. I'm not sure I ever volunteered
4 that the decision was even made, but at some
5 point, it became an issue because he found out
6 through -- if I understand the sequence of
7 events correctly, he found out possibly through
8 his counsel because there was ultimately
9 litigation about that issue. It became known
10 to everyone at some point what I had done, I --
11 I think. And subsequent to that, it became an
12 issue because of CLO HoldCo having fairly
13 significant cash flow issues with respect to
14 its expenses and obligations, including payment
15 of management fees as well as some of the
16 scheduled charitable giving that was -- that
17 was by contract already predefined. My
18 decision to tuck that money -- or to agree
19 to -- my agreement to let that money be tucked
20 away created some -- created some -- created
21 some problems --

22 Q. And -- and --

23 A. -- for CLO HoldCo.

24 Q. Okay. And I just want you to focus
25 specifically on my question, and that is, what

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2 did Mr. Dondero say to you that -- that causes
3 you to testify as you did, that this is one
4 issue that he didn't agree with?

5 A. I believe his concern was that
6 because it was money that was undisputably to
7 flow to CLO HoldCo that -- which had many, many
8 other nonliquid assets -- this was a form of a
9 liquid asset. It was cash in effect, proceeds.
10 -- that the money should have been allowed to
11 flow to be available for obligations. He
12 didn't under- -- I -- I -- I don't know what he
13 was thinking, but the -- the issue was that the
14 decision to put it into escrow was -- was --
15 was in- -- incorrect, that there was no basis
16 for it.

17 Q. That -- that's an issue where after
18 learning of your decision, he didn't agree with
19 it; is that fair?

20 A. That's right.

21 Q. Okay. Can you think of any decision
22 that you've ever made on behalf of CLO HoldCo
23 Limited where Mr. Dondero had advance knowledge
24 of what you were going to do and he objected to
25 it, but you nevertheless overruled his

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2 objection and went ahead and did what -- did
3 what you thought was right?

4 A. Okay. Let me -- let me -- I have --
5 I'm sorry.

6 Q. We're here.

7 A. Oh, I'm sorry. I'm having some
8 issues with my screen. So that may have
9 occurred with respect to the original proof of
10 claim. Then there was a subsequent amendment
11 to the proof of claim, and I -- I believe it --
12 I believe that he might have been aware of both
13 of those and was in disagreement with -- with
14 those. But after working with my attorney, we
15 just -- you know, we did what we thought was
16 right, and I still think what we did was right.
17 There was an issue with respect to Har- --
18 HarbourVest that occurred relatively recently
19 where he objected to a decision that I had
20 made. As I understand it, I could have
21 contacted my attorney and changed the decision,
22 but I didn't, and I still think that was the
23 right decision.

24 We have filed plan objections. I
25 can't say if he has any -- in that regard, I --

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2 I -- I don't know what his thoughts are on
3 objections. They would not have been
4 communicated with -- by me to him, but my
5 attorney might have consulted with his
6 attorney, and there -- they may know what that
7 difference is, but I -- that was just another
8 big decision. I -- I -- maybe that --

9 Q. All right. Let me see if I can --
10 let me see if I can summarize this. So two
11 proofs of claim. Is it fair to say that
12 Mr. Dondero saw those proofs of claim before
13 they were filed?

14 MR. CLARK: Objection, form.

15 BY MR. MORRIS:

16 Q. Withdrawn.

17 A. It --

18 Q. Do -- do you know whether
19 Mr. Dondero saw the proofs of claim before they
20 were filed?

21 A. I don't believe he did.

22 Q. What -- what steps in filing the
23 proofs of claim did he object to that you
24 overruled? Did he think there was -- something
25 should be different about them?

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2 A. So we had to interface with Highland
3 employees at some point to get information to
4 support our proof of claim, and my guess, and
5 it's just a guess, is that he was aware of
6 those inquiries. I -- I'm sorry. I shouldn't
7 speculate. I don't know. But he -- with
8 respect to the original proof of claim, I'm --
9 I'm not aware of what specifically he was
10 objecting to or was -- thought should have been
11 different, but the -- with respect to the
12 amended proof of claim, which reduced the
13 original proof of claim to zero, I think that's
14 where he had a -- an issue.

15 Q. And did you speak with him about
16 that topic prior to the time the amended claim
17 was filed, or did you only speak with him after
18 it was filed?

19 A. I'm not sure the timing of that.

20 Q. And with respect to HarbourVest, did
21 he ask you to object to the settlement on
22 behalf of CLO HoldCo Limited, and is that
23 something that you declined to do?

24 MR. CLARK: Objection, form.

25 A. I'm -- I'm sorry. I was confused

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2 with the word. Could you please repeat that?

3 Q. Yes. You mentioned HarbourVest
4 before, right?

5 A. Yes.

6 Q. And you mentioned that there was an
7 issue with Mr. Dondero and you concerning
8 HarbourVest; is that right?

9 A. Yes.

10 Q. And did that have to do with whether
11 or not CLO HoldCo Limited would -- would object
12 to the debtor's motion to get the HarbourVest
13 settlement approved?

14 A. Would -- would get the
15 HarbourVest --

16 Q. Settlement approved by the court.

17 A. I'm not trying to be difficult.

18 I'm -- I'm -- could you just repeat that one
19 more time? I'm --

20 Q. What was -- what was --

21 A. There was --

22 Q. Let me try again.

23 A. Okay.

24 Q. What was the issue with respect to
25 HarbourVest that he objected to and -- and you

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2 overrode his objection and did what you thought
3 was right anyway?

4 A. Okay. Okay. That's -- that's
5 easier for me to understand. I'm sorry. So I
6 had worked with my attorney or he did the work
7 and consulted with -- we consulted, but we had
8 filed an objection, motion objecting to the
9 settlement, if I understand the terminology and
10 nomenclature correctly. Okay. He had -- we
11 had come to an agreement that we had a very
12 valid argument. That argument was evidenced
13 by, I guess it was, our motion that was
14 submitted to the court. On the day of the
15 hearing to resolve this issue, we pulled our
16 request, and that was because I believed it did
17 not have a good-faith basis in law to move
18 forward on.

19 Q. And did you discuss that issue with
20 Mr. Dondero before informing the court that CLO
21 HoldCo Limited was withdrawing its objection,
22 or did he learn about that for the first time
23 during the hearing --

24 MR. CLARK: Objection, form.

25 BY MR. MORRIS:

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2 Q. -- if you know?

3 A. I -- I understand that he learned it
4 during the hearing. I don't know the -- I -- I
5 don't know the -- whether there was any -- I --
6 I don't know for certain on the second half of
7 your question.

8 Q. Let me -- let me try it -- let me
9 try it this way: Did you speak with
10 Mr. Dondero about your decision to withdraw the
11 objection to the HarbourVest settlement prior
12 to the time your counsel made the announcement
13 in court?

14 A. I don't -- I don't believe so. No.
15 No. No. I'm sorry. No.

16 Q. And did --

17 A. Okay. No. Here -- here's where
18 I'm -- I can clarify, okay? I'm sorry. I can
19 clarify.

20 Q. That's all right.

21 A. I gave the decision to my
22 attorney -- I -- I agreed with the
23 recommendation of my attorney, okay? It wasn't
24 my --

25 Q. Did you have a good --

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2 A. -- thought, okay?

3 THE REPORTER: I didn't --

4 A. Okay. So he --

5 Q. It was a recommendation.

6 A. Yeah. So he -- he called me with a
7 recommendation. It was highly urgent. You
8 know, I was coming out of the men's room, had
9 my phone with me. I got the call.

10 MR. CLARK: Hey, Grant, I -- Grant,
11 I just want to caution you not to -- to --
12 and I don't think counsel is looking for
13 this but not to disclose the -- the
14 substance of any of your communications
15 with counsel, okay?

16 THE WITNESS: Thank you.

17 A. So --

18 THE WITNESS: Thank you. I'm -- I'm
19 sorry.

20 BY MR. MORRIS:

21 Q. It's -- it's really a very simple
22 question. Do you recall --

23 A. He made a recommendation. I -- I --
24 I think I can answer your question without
25 going off tangent. I'm sorry. So he -- my

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2 attorney made a recommendation. I agreed with
3 it. We with- -- I -- I told him to withdraw --
4 or I authorized him to withdraw.

5 Q. Okay.

6 A. Then I received a communication, and
7 I -- I guess the most likely scenario is the
8 motion had been withdrawn by the time Jim
9 Dondero found out.

10 Q. And -- and did he write to you, or
11 did he call you? Did he send you a text?

12 A. He called me.

13 Q. What did he say?

14 A. He was asking why, and I explained,
15 and I said I agreed with the decision and I was
16 sticking with the decision.

17 Q. Let's just -- let's just move on to
18 a new topic, and let's talk about the structure
19 of -- of CLO HoldCo. Are you generally
20 familiar with the ownership structure of CLO
21 HoldCo?

22 A. Yeah. I mean, in terms --

23 Q. Are -- are you -- are you generally
24 familiar with it? It's not a test. I'm just
25 asking do you have a general familiarity --

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2 A. With CLO HoldCo or the entities
3 associated with CLO HoldCo?

4 Q. The latter.

5 A. Yes, I believe so.

6 Q. All right. I've prepared what's
7 called a demonstrative exhibit. It's just --

8 A. Yes.

9 Q. -- just -- it's a document that, I
10 think, reflects facts, but I want to ask you
11 about it.

12 MR. MORRIS: La Asia, can we please
13 put up Exhibit 1.

14 (SCOTT EXHIBIT 1, Organizational
15 Structure: CLO HoldCo, Ltd., was marked
16 for identification.)

17 BY MR. MORRIS:

18 Q. Okay. Can you see that, Mr. Scott?

19 A. Yes, I can.

20 Q. Okay. So I think I took the
21 information from resolutions that were attached
22 to the CLO HoldCo proof of claim, and that's
23 why you got that little footnote there at the
24 bottom of the page. But let's start in the
25 lower right-hand corner and see if this chart

1 GRANT SCOTT - 1/21/2021

2 comports with your understanding of the facts.

3 Do you know that CLO HoldCo Limited
4 was formed in the Cayman Islands?

5 A. Yes.

6 Q. And to the best of your knowledge,
7 is CLO HoldCo Limited 100 percent owned by the
8 Charitable DAF Fund, L.P.? If you're not sure,
9 just say you're not sure if you don't know.

10 It's not a test.

11 A. So the -- the -- the familiarity
12 I -- I'm -- I'm familiar with the different --
13 I'm confused with the arrangement of the boxes
14 and the ownership interest versus managerial
15 interest. I believe that's -- that's right.

16 Q. Okay. And -- and you're the sole
17 director of CLO HoldCo Limited, right?

18 A. Yes.

19 Q. And this whole structure was -- the
20 idea for this structure, to the best of your
21 knowledge, was to implement Mr. Dondero's plan
22 for charitable giving; is that fair?

23 A. Yes. Ultimately, yes.

24 Q. And is it fair to say then that
25 he -- he made the decision to establish this

1 GRANT SCOTT - 1/21/2021

2 particular structure, to the best of your
3 knowledge?

4 A. I -- I didn't -- I'm sorry. I
5 didn't hear you very well.

6 Q. To the best of your knowledge, did
7 Mr. Dondero make the decisions to establish the
8 structure that's reflected on this page?

9 A. Oh, I don't know if he made the
10 decision to establish this structure, although
11 it's -- it's -- I'm sorry. Strike that. I --
12 if -- if what you're saying is did he approve
13 of this structure, to my knowledge, yes.

14 Q. Okay. Do you hold any position with
15 respect to Charitable DAF Fund, L.P.?

16 A. I -- I -- your chart says no. I --
17 I -- I thought I had a role there, too.

18 Q. I don't know. I don't have
19 information on that. That's why I'm asking the
20 question.

21 A. I -- I -- I believe -- yes, I
22 believe I have the same role as I do in -- in
23 CLO HoldCo.

24 Q. And that would be director?

25 A. Yes.

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2 Q. And to the best of your knowledge,
3 is the Charitable DAF GP, LLC, the general
4 partner of Charitable DAF Fund, L.P.?

5 A. Yes.

6 Q. And is it your understanding that
7 you are the managing member of Charitable DAF
8 GP, LLC?

9 A. Yes.

10 Q. Does Charitable DAF GP, LLC, have
11 any employees?

12 A. No.

13 Q. Does Charitable DAF GP, LLC, have
14 any officers or directors?

15 A. No.

16 Q. Are you the only person affiliated
17 with Charitable DAF GP, LLC, to the best of
18 your --

19 A. I believe so.

20 Q. Do you receive any compensation for
21 serving as the managing member of Charitable
22 DAF GP, LLC?

23 A. No. The -- I don't interact with it
24 very often. It's -- no, I don't receive any
25 compensation.

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2 Q. Can you tell me in your capacity as
3 the managing member of Charitable DAF GP, LLC,
4 what's the nature of that entity's business?

5 A. It -- it doesn't perform any
6 day-to-day operations. My understanding is --
7 is that it's -- it's there for purposes of
8 compliance. I can't recall the last time I had
9 any activity with respect to that.

10 Q. How about the Charitable DAF Fund,
11 L.P.? I apologize if I've asked you these
12 questions.

13 A. It -- it's the same. I -- I -- my
14 activity is almost exclusively CLO HoldCo.

15 Q. All right. Let me just ask the
16 questions nevertheless. Does Charitable DAF
17 Fund, L.P., have any employees?

18 A. Employees? No.

19 Q. Does it have any officers and
20 directors?

21 A. No.

22 Q. Are you the sole director of
23 Charitable DAF Fund, L.P.?

24 A. Yes, I believe so.

25 Q. So if we -- if we put under

1 GRANT SCOTT - 1/21/2021
2 Charitable DAF Fund, L.P., Grant Scott,
3 director, and we put under CLO HoldCo Limited
4 Grant Scott, director, would everything on the
5 right side of that page be accurate, to the
6 best of your --

7 A. I believe so.

8 Q. Well, let's move to the left side of
9 the page. Have you heard of the entity
10 Charitable DAF HoldCo Limited?

11 A. Yes.

12 Q. Are you the sole director of
13 Charitable DAF HoldCo Limited?

14 A. Yes.

15 Q. How did you become -- how did you
16 come to be the char- -- the sole director of
17 Charitable DAF HoldCo Limited?

18 A. That was when it was established.

19 Q. And did Mr. Dondero ask you to serve
20 in that capacity?

21 A. Yes.

22 Q. And did Mr. Dondero ask you to serve
23 as the managing member of Charitable DA- -- DAF
24 GP, LLC?

25 A. Yes.

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2 Q. And did Mr. Dondero ask you to serve
3 as the director of Charitable DAF, L.P. --
4 withdrawn.

5 Did Mr. Dondero ask you to serve as
6 director of Charitable DAF Fund, L.P.?

7 A. Yes.

8 Q. To the best of your knowledge, does
9 Charitable DAF HoldCo Limited own 99 percent of
10 the limited partnership interests in Charitable
11 DAF Fund, L.P.?

12 A. Yes. The -- the feed -- the -- the
13 feeds -- the -- the three horizontal blocks
14 there that identify Highland Dallas Foundation,
15 Kansas City, Santa Barbara -- there's a fourth
16 of -- relatively de minimus in terms of
17 participation. There's a fourth entity that's
18 missing. It's Dallas -- I forget the name.
19 That -- that -- that structure is -- is a bit
20 dated --

21 Q. Okay.

22 A. -- as it -- as is shown.

23 Q. Okay. So I will tell you and we can
24 look the documents if you want, but attached to
25 CLO HoldCo Limited's claim are a number of

1 GRANT SCOTT - 1/21/2021
2 resolutions, and there's one that I have in
3 mind that shows Charitable DAF HoldCo Limited
4 holding 99 percent of the limited partnership
5 interests of Charitable DAF Fund, L.P., and
6 there's another that shows it being a hundred
7 percent. Do you -- do you know which is
8 accurate at least at this time?

9 A. There's a 1 percent/99 percent
10 division, and I am -- I believe it's the 99
11 percent, but I'm -- I'm getting confused by
12 the -- by the arrangement. I'm so used to
13 another arrangement. I -- I believe the 99
14 percent is correct.

15 Q. Okay. Do you have any understanding
16 as to who owns the other 1 percent of the
17 limited partnership interests of Charitable DAF
18 Fund, L.P.?

19 A. No. This -- this is confusing to
20 me. No.

21 Q. Okay. There are, at least on this
22 page, three foundations that I think you've
23 identified. Are those three foundations
24 together with the fourth that you mentioned the
25 owners of the Charitable DAF HoldCo Limited?

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2 A. Owners?

3 Q. Yes.

4 MR. CLARK: Objection, form.

5 A. They -- they only participate in the
6 money that flows up to them.

7 Q. And what does that mean exactly?

8 A. What's that?

9 Q. What does that -- what do you mean
10 by that? Do the foundations fund Charitable
11 DAF Fund HoldCo Limited?

12 A. Initially. Initially, as I
13 understand it, the money flows downward into
14 the Charitable DAF HoldCo Limited before it
15 ultimately makes its way to CLO HoldCo, and
16 then each of those three entities, the various
17 foundations, obtain participation interest in
18 the money that flows back to them.

19 Q. And -- and is that par- -- are those
20 participation interests in Charitable -- you
21 know what, let -- let me just pull up one
22 document and see if that helps.

23 MR. MORRIS: Can we put up -- I
24 think it's Exhibit Number 5.

25 (SCOTT EXHIBIT 2, Unanimous Written

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2 Consent of Directors In Lieu of Meeting,
3 was marked for identification.)

4 MR. MORRIS: I apologize. Let's go
5 to --

6 MS. CANTY: I'm sorry, John. I
7 can't hear you. Was that not the exhibit?

8 MR. MORRIS: 4.

9 MS. CANTY: Okay.

10 THE REPORTER: And Mr. Morris, you
11 are -- Mr. Morris, you are breaking up just
12 a little bit at the end of your questions.

13 BY MR. MORRIS:

14 Q. Okay. Do you see the document on
15 the screen, sir?

16 A. Yes, I do.

17 Q. Okay. And so this is a unanimous
18 written consent of the directors of the
19 Highland Dallas Foundation. That's one of the
20 entities that was on the chart.

21 MR. MORRIS: Can we scroll down to
22 the -- the bottom of the document where the
23 signature lines are. Right there.

24 BY MR. MORRIS:

25 Q. Are you a director of the Highland

1 GRANT SCOTT - 1/21/2021

2 Dallas Foundation?

3 A. Yes, selected by them.

4 Q. Selected by whom?

5 A. By that foundation.

6 Q. Are you -- are you a director of all
7 of the four foundations that feed into the
8 Charitable DAF HoldCo Limited entities that --

9 A. No.

10 Q. Which of the four foundations are
11 you a director of?

12 A. This and the Santa Barbara -- I'm
13 sorry, Santa Barbara and Kansas City.

14 Q. So is -- there's one that you're not
15 a director of; is that right?

16 A. Yes.

17 Q. And which one is that?

18 A. The -- could you go back to the --

19 Q. Yeah.

20 MR. MORRIS: Go back to the
21 demonstrative.

22 A. It's the Highland Dallas Foundation
23 and Santa Barbara Foundation.

24 Q. Those are the two that you're a
25 director of?

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2 A. Yes.

3 Q. To the best of your knowledge, does
4 Mr. Dondero serve as the president for each of
5 the foundations that we're talking about?

6 A. Yes.

7 Q. To the best of your knowledge, is
8 Mr. Dondero a director of each of the
9 foundations that we're talking about?

10 A. Say that again. I'm sorry.

11 Q. Is he also a director of each of the
12 foundations?

13 A. Yes.

14 Q. Do you know whether any of the
15 foundations has any employees?

16 A. I believe they do, but I -- I -- I
17 can't say for certain.

18 Q. Does -- withdrawn.
19 Do you know if there are any
20 officers of any of the four foundations other
21 than Mr. Dondero's service as president?

22 A. I'm sorry. Say that one more time,
23 please.

24 Q. Yes. Do you know whether any of the
25 four foundations has any officers other than

1 GRANT SCOTT - 1/21/2021

2 Mr. Dondero's service as president?

3 A. No.

4 Q. You don't know, or they do not?

5 A. I -- I don't believe anyone else

6 has. I -- actually, I should say I don't -- I

7 don't recall. I -- I don't know. I don't -- I

8 don't know.

9 Q. As a director of the Dallas and

10 Santa Barbara foundations, are you aware of any

11 officers serving for either of those

12 foundations other than Mr. Dondero?

13 A. No.

14 Q. Do you know who the beneficial owner

15 of the Charitable DAF HoldCo Limited entity is?

16 A. The beneficial owner?

17 Q. Correct.

18 A. The various -- various trusts that

19 were used to -- that were the vehicles by which

20 the money originally was established within --

21 within -- within CLO HoldCo.

22 Q. Would that be -- would one of them

23 be the Get Good Nonexempt Trust?

24 A. Yes.

25 Q. And you're a trustee of the Get Good

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2 Nonexempt Trust, right?

3 A. Yes.

4 Q. When did you become a trustee of the
5 Get Good Nonexempt Trust?

6 A. Many years ago. I -- I don't
7 remember.

8 Q. Are there any other trustees of the
9 Get Good Nonexempt Trust?

10 A. No.

11 Q. Does the Get Good Nonexempt Trust
12 have any officers, directors, or employees?

13 A. No.

14 MR. CLARK: Objection, form. Sorry.

15 BY MR. MORRIS:

16 Q. Withdrawn.

17 Do you know whether the Get Good
18 Nonexempt Trust has any officers, directors, or
19 employees?

20 A. It does not.

21 Q. And I apologize if I asked this, but
22 are you the only trustee of the Get Good
23 Nonexempt Trust?

24 A. Yes.

25 Q. Is the Dugaboy Investment Trust also

1 GRANT SCOTT - 1/21/2021

2 one of the trusts that has an interest in

3 Charitable DAF HoldCo Limited?

4 A. Yes.

5 Q. Are you a trustee of the Dugaboy

6 Investment Trust?

7 A. I am not.

8 Q. Do you know who is?

9 A. I believe it's his sister.

10 Q. And is that -- you're referring to

11 Mr. Dondero's sister?

12 A. I'm sorry. Yes.

13 Q. And what's the basis for your

14 understanding that Mr. Dondero's siv- -- sister

15 serves as the trustee of the Dugaboy Investment

16 Trust?

17 A. Many years ago there was a -- there

18 was a clerical error that identified me as the

19 trustee of the Dugaboy. That error was present

20 for approximately two weeks or a week and a

21 half before it was detected and corrected, and

22 so I know from that correction that it's Nancy

23 Dondero.

24 Q. Are there any other trusts that have

25 an interest in Charitable DAF HoldCo Limited

1 GRANT SCOTT - 1/21/2021

2 besides those trusts, to the best of your
3 knowledge?

4 A. No.

5 Q. Is it your understanding based on
6 what we've just talked about that the Get Good
7 Nonexempt Trust and the Dugaboy Investment
8 Trust are the indirect beneficiaries of CLO
9 HoldCo Limited?

10 A. Yes.

11 Q. Can you tell me who the
12 beneficiaries are of the Get Good trust?

13 A. I mean, Jim Dondero.

14 Q. And -- and what is that -- is that
15 based on the trust agreement -- your knowledge
16 of the trust agreement?

17 A. Yes.

18 Q. Do you have an understanding of who
19 the beneficiary is of the Dugaboy Investment
20 Trust?

21 A. I don't know anything about that
22 trust.

23 MR. MORRIS: Okay. All right.

24 Let's take a short break and reconvene at
25 3:30 Eastern Time. We've been going for a

1 GRANT SCOTT - 1/21/2021

2 while.

3 MR. CLARK: Thank you.

4 MR. MORRIS: Okay. Thank you.

5 (Whereupon, there was a recess in

6 the proceedings from 3:20 p.m. to

7 3:31 p.m.)

8 BY MR. MORRIS:

9 Q. Mr. Scott, earlier I think you

10 testified that you interfaced with the folks at

11 Highland in connection with your duties as the

12 director of CLO HoldCo Limited, right?

13 A. Yes.

14 Q. Are you aware of any written

15 agreement between Highland Capital Management

16 and CLO HoldCo Limited?

17 A. Yes, the various servicer

18 agreements.

19 Q. Okay. Are you aware that

20 Mr. Dondero resigned from his position at

21 Highland Capital Management sometime in

22 October?

23 A. No.

24 Q. Have you communicated with anybody

25 at Highland Capital Management about the

1 GRANT SCOTT - 1/21/2021

2 affairs of CLO HoldCo Limited at any time since
3 October?

4 A. Yes.

5 Q. Anybody other than Jim Seery?

6 A. Yes.

7 Q. Okay. Let's start with Mr. Seery.

8 You've spoken with him before, right?

9 A. Yes.

10 Q. Do you have his phone number?

11 A. Yes.

12 Q. How many times have you spoken with

13 Mr. Seery, to the best of your recollection,

14 just generally? It's not a test.

15 A. Three, maybe four times.

16 Q. Okay. Can you identify by name

17 anybody else at Highland that you've spoken

18 with since -- in the last two or three months?

19 A. I spoke to Jim Dondero. I've spoken

20 with Mike Throckmorton. The usual suspects, so

21 to speak. Mark Patrick, Mel- -- Melissa

22 Schroth.

23 Q. Can you recall anybody else?

24 A. No. No. Sorry.

25 Q. Did you -- did you -- withdrawn.

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2 Do you recall the subject matter of
3 your discussions with Mr. Throckmorton?

4 MR. CLARK: Objection, form.

5 BY MR. MORRIS:

6 Q. Withdrawn.

7 Do you recall your -- the subject
8 matter of your communications with
9 Mr. Throckmorton?

10 MR. CLARK: Objection, form.

11 BY MR. MORRIS:

12 Q. You can answer.

13 A. I -- I regularly interface with
14 Mr. Throckmorton regarding approvals of
15 expenses, and he's my sort of -- he's my point
16 person for approving wire transfers and things
17 of that nature.

18 Q. How about Mr. Patrick, what -- what
19 area of responsibility does he have with
20 respect to CLO HoldCo Limited?

21 A. He -- he doesn't, to my knowledge.

22 Q. Do you recall the nature of the
23 substance of any communications that you've had
24 with Mr. Patrick since -- you know, the last
25 two or three months?

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2 A. Yes. Or -- yes.

3 Q. And what -- what are the nature of
4 those conversations or the substance?

5 A. He was -- he was one of the
6 individuals that helped to establish the
7 hierarchy for the -- what I keep referring to
8 as the charitable foundation.

9 Q. And -- and do you recall why you
10 spoke to him in the last -- or -- withdrawn.

11 Do you recall the nature of your
12 communications in the last two or three months
13 with Mr. Patrick?

14 A. I --

15 MR. CLARK: And hold on, Grant. I'm
16 going to caution -- my understanding -- I
17 believe Mr. Patrick's an attorney, and so
18 I'm going to caution you that you shouldn't
19 disclose the substance of -- of those
20 communications based on the attorney-client
21 privilege.

22 MR. MORRIS: Well, I'm -- I -- I am
23 the lawyer for the company so -- I guess
24 there are other people on the phone and I
25 appreciate that, but let's see if we can --

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2 I don't mean to be contentious here, so it
3 wouldn't -- I -- I'd be part of the
4 privilege anyway.

5 BY MR. MORRIS:

6 Q. But in any event, can you tell me
7 generally -- I'm just looking for general
8 subject matter of your conversations with
9 Mr. Patrick.

10 A. I asked him how I would go about
11 re- -- resigning my position.

12 Q. And when did that conversation take
13 place?

14 A. Within the last two weeks.

15 Q. Have you made a decision to resign?

16 A. No.

17 Q. I think you mentioned Melissa
18 Schroth. Do I have that right?

19 A. Yes.

20 Q. Can you describe generally the
21 communications you had with Ms. Schroth in the
22 last few months.

23 A. They -- she has e-mailed me certain
24 documents that I needed to sign. I had a
25 conversation with her about -- about some

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2 home -- home improvements, home construction
3 with respect to Jim Dondero's home in Colorado,
4 and that's -- I -- I think that's -- that's it.

5 Q. Okay. Do you recall communicating
6 with anybody at Highland in the last three
7 months other than Mr. Dondero,
8 Mr. Throckmorton, Mr. Patrick, and Ms. Schroth?

9 A. I -- I spoke with Jim Seery this
10 week.

11 Q. Anybody else?

12 A. I don't -- I don't know.

13 Q. Okay.

14 A. I don't think so.

15 Q. In your communications with
16 Mr. Seery, did you two ever discuss his reasons
17 for making any trade on behalf of any CLO?

18 A. No.

19 Q. In your discussions with Mr. Seery,
20 did you ever tell him that you believed that
21 Highland Capital Management had breached any
22 agreement in relation to any CLO?

23 A. Have I had that discussion with Jim
24 Seery?

25 Q. Yes.

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2 A. No.

3 Q. In your discussions with Mr. Seery,
4 did you ever tell him that you thought Highland
5 Capital Management was in default under any
6 agreement in relation to the CLOs?

7 A. No.

8 Q. I want to focus in particular on the
9 shared services agreement. In -- in your
10 discussions with Mr. Seery, did you ever tell
11 him that you believed that Highland Capital
12 Management was in default or in breach of its
13 shared services agreement with CLO HoldCo
14 Limited?

15 A. No.

16 Q. In your communications with
17 Mr. Seery, did you ever indicate any concern on
18 the part of CLO HoldCo Limited with respect to
19 Highland Capital's Man- -- Highland Capital
20 Management's performance under the shared
21 services agreement?

22 A. No.

23 Q. As you sit here today, do you have
24 any reason to believe that Highland Capital
25 Management has done anything wrong in

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2 connection with its performance as the
3 portfolio manager of the CLOs in which CLO
4 HoldCo Limited has invested?

5 MR. CLARK: Object to form.

6 A. In terms of the -- are you saying --
7 please say that again. I'm sorry.

8 Q. That's okay. I ask long questions
9 sometimes so forgive me, but I'm trying to
10 get -- I'm trying to be precise so that's why
11 it's difficult sometimes. But let me try
12 again.

13 Does CLO HoldCo Limited contend that
14 Highland Capital Management has done anything
15 wrong in the performance of its duties as
16 portfolio manager of the CLOs in which CLO
17 HoldCo has invested?

18 MR. CLARK: Objection, form.

19 A. Yes. It's -- it's outlined in our
20 objections to -- to the plan.

21 Q. Okay. Any -- are you aware of
22 anything that's not contained within CLO Holdco
23 Limited's objection to the plan?

24 MR. CLARK: Objection, form.

25 A. I don't know if this is responsive

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to your quest -- request, but two -- two issues, I believe, also pose an in- -- a problem for CLO HoldCo. One is we are paying for services. I think I referred to the services as being soup to nuts, but we are not getting the full services. We haven't been for some time. So we're likely overpaying. There was a Highland Select Equity issue, 11-month payment that was delayed which I was unaware of was due. Normally, I would have interfaced with someone at Highland about that, but my attorney -- but my -- my attorney had to make a request for payment, and that payment was ultimately made. I -- other than that, I -- I don't -- I don't know. I don't believe so.

Q. I want to distinguish between the shared services agreement between Highland Capital Management and CLO HoldCo Limited on the one hand and on the other hand the management agreements pursuant to which Highland Capital Management manages certain CLOs that CLO HoldCo invests in.

You understand the distinction that I'm making?

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2 A. Now I do. I'm sorry. I didn't
3 appreciate that.

4 Q. Okay. So let's just take each of
5 those pieces one at a time. You mentioned your
6 concern about services. That's a concern that
7 arises under the shared services agreement,
8 right?

9 A. Yes.

10 Q. And you mentioned something about a
11 delayed payment having to do with Highland
12 Select. Do I have that generally right?

13 A. Correct.

14 Q. And is that a concern that you have
15 that arises under the shared services
16 agreement?

17 A. It's not the agreement with respect
18 to the CLOs as I understand it.

19 Q. Okay. So then let's turn to that
20 second bucket. You were aware -- you are
21 aware, are you not, that Highland Capital
22 Management has certain agreements with CLOs
23 pursuant to which it manages the assets that
24 are owned by the CLOs?

25 A. I'm so sorry. Could you please --

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2 Q. I'll try again.

3 A. I'm just -- I'm sorry. I was
4 distracted and -- and I -- I'm sorry for asking
5 you to repeat it again. Please --

6 Q. Okay.

7 A. Please re- --

8 Q. Are you aware that CLO HoldCo
9 Limited has made investments in certain CLOs?

10 A. Oh, yes, certainly.

11 Q. And are you aware that those CLOs
12 are managed by Highland Capital Management?

13 A. Yes. As the -- as the servicer,
14 yes.

15 Q. Okay. Have you ever seen any of the
16 agreements pursuant to which Highland Capital
17 Management acts as a servicer?

18 A. I've seen a few, yes.

19 Q. Does CLO HoldCo Limited contend that
20 it is a party to any agreement between Highland
21 Capital Management and the CLOs?

22 MR. CLARK: Object to form. And I
23 just want to note for the record that
24 Mr. Scott is here testifying in his
25 individual capacity, I believe, not as a

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2 corporate representative.

3 MR. MORRIS: Fair enough. But he is

4 the only representative so...

5 MR. CLARK: Fair enough. I just

6 want that made -- stated for the record,

7 but I also object as to form.

8 MR. MORRIS: Got it.

9 A. It's a third-party beneficiary under

10 the agreements.

11 Q. And is that because of something you

12 read in the document, or is that just your

13 belief and understanding?

14 A. My belief and understanding.

15 Q. And is that belief and understanding

16 based on anything other than conversations with

17 counsel?

18 A. In -- in -- recently it has, but I

19 don't recall from previous interactions over

20 the years how we discussed that or how I came

21 to -- to understand that.

22 Q. Does HCLO [sic] HoldCo -- did -- in

23 your capacity as the sole director of HCLO

24 HoldCo Limited, are you aware of anything that

25 Highland Capital Management has done wrong in

1 GRANT SCOTT - 1/21/2021

2 connection with the services provided under the
3 CLO management agreements?

4 MR. CLARK: Objection, form.

5 A. I -- I don't -- I don't -- I
6 don't -- your answer's no.

7 Q. In your capacity as the director of
8 CLO HoldCo Limited, are you aware of any
9 default or breach under the CLO management
10 agreements that -- that Highland Capital
11 Management has caused?

12 MR. CLARK: Objection, form.

13 A. We have raised the issue about
14 ongoing sales in various -- I'm not sure
15 whether they represent a technical breach,
16 though.

17 Q. Okay. Are you aware of any
18 technical breach?

19 MR. CLARK: Objection, form.

20 A. No.

21 Q. I'm sorry. You said, no, sir?

22 A. My answer's no.

23 Q. Thank you. Do you know who made the
24 decision to cause the CLO HoldCo Limited entity
25 to invest in the CLOs that are managed by

1 GRANT SCOTT - 1/21/2021

2 Highland Capital?

3 A. The select -- ultimately, I had to.

4 Q. I thought you testified earlier that
5 you didn't make decisions as to investment. Do
6 I have that wrong?

7 A. The selection.

8 Q. Okay.

9 A. I -- I'm --

10 Q. So -- so explain to me --

11 A. I have to approve -- I have to
12 approve the selection. I'm sorry. But the
13 people making -- I was putting that in the camp
14 of the people that make the selection.

15 Q. Okay. Do you know if -- do you know
16 if there are CLOs in the world that exist that
17 aren't managed by Highland Capital Management?

18 MR. CLARK: Objection, form.

19 A. Are there CLOs in the -- in the
20 world that are not --

21 Q. Yes.

22 A. Yes. It's -- it's a well-known --
23 it's a well-known --

24 Q. In your capacity as the director of
25 CLO HoldCo Limited, did you ever consider

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2 making an investment in a CLO that wasn't
3 managed by Highland?

4 A. No.

5 Q. Is there any particular reason why
6 you haven't given that any consideration?

7 A. That hasn't been my role. That's
8 not my expertise. That's been something
9 Highland has done and, quite frankly, over the
10 years brilliantly so, no.

11 Q. You're aware that HCM, L.P., has
12 filed for bankruptcy, right?

13 A. Yes.

14 Q. When did you learn that Highland had
15 filed for bankruptcy?

16 A. After the fact sometime in late --
17 late 2019.

18 Q. Since the bankruptcy filing, have
19 you made any attempt to sell CLO HoldCo
20 Limited's position in any of the CLOs that are
21 managed by Highland?

22 A. No.

23 Q. So notwithstanding the bankruptcy
24 filing, you as the director haven't made any
25 attempt to transfer out of the CLOs that are

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2 managed by Highland, correct?

3 A. Correct.

4 Q. Did you ever give any thought to
5 exiting the CLO vehicles that were managed by
6 Highland in light of its bankruptcy filing?

7 A. No.

8 Q. Have you ever discussed with
9 Mr. Seery anything having to do with the
10 management -- withdrawn.

11 Have you ever discussed with
12 Mr. Seery any aspect of the debtor's management
13 of the CLOs in which CLO HoldCo Limited is
14 invested?

15 A. No.

16 Q. You mentioned earlier a request to
17 stop trading. Do I have that right?

18 A. Yes.

19 Q. Okay. And are you aware that a
20 letter was written purportedly on behalf of CLO
21 HoldCo Limited in which a request to stop
22 trading was made?

23 A. As a cos- -- yeah. Yes.

24 Q. Okay. Have you ever seen that
25 letter before?

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2 A. Yes.

3 MR. MORRIS: Can we put up on the
4 screen -- I think it's now Exhibit 6. It's
5 Exhibit DDDD.

6 (SCOTT EXHIBIT 3, Letter to James A.
7 Wright, III, et al., from Gregory Demo,
8 December 24, 2020, with Exhibit A
9 Attachment, was marked for identification.)

10 MR. MORRIS: Can we scroll down to,
11 I guess, what's Exhibit A. Ri- -- right
12 there.

13 BY MR. MORRIS:

14 Q. You see this is a letter Dece- --
15 dated December 22nd?

16 A. Yes.

17 Q. In the first paragraph there there's
18 a reference to the entities on whose behalf
19 this letter is being sent.

20 Do you see that?

21 A. Yes.

22 Q. Okay. So this letter was sent on
23 December 22nd. Did you see a copy of it before
24 it was sent?

25 A. A -- a draft -- an earlier draft of

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2 this I did.

3 Q. Okay. Did you provide any comments
4 to it?

5 A. I did.

6 MR. CLARK: Well, hold on. Grant,
7 let me caution you. To the extent you
8 provided comments to counsel, we're going
9 to assert the attorney-client privilege on
10 those comments.

11 MR. MORRIS: It's just a yes-or-no
12 question. I'm not looking for the
13 specifics.

14 MR. CLARK: Thank you.

15 A. Yes.

16 Q. Are you aware that earlier letters
17 were -- withdrawn.

18 Are you aware that prior to December
19 22nd, the entities other than CLO HoldCo
20 Limited that are listed in this pers- -- first
21 paragraph had sent a letter making the same
22 request?

23 A. With respect to a letter, no. No,
24 I -- I did not.

25 Q. Are you aware as you sit here now

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2 that the entities other than CLO HoldCo Limited
3 that are listed in the first paragraph made a
4 motion in the court asking the court for an
5 order that would have prevented Highland from
6 making any transactions for a limited period of
7 time?

8 A. Yes.

9 Q. Did you know that motion was being
10 made prior to the time that it was made?

11 A. I'm not sure.

12 Q. Did you ever think about whether CLO
13 HoldCo Limited should join that particular
14 motion?

15 A. I believe we were -- my attorney was
16 aware of it. I don't recall our discussion
17 about it. We were aware -- when I say we, I
18 mean collectively -- and did not join it.

19 Q. Okay. Can you tell me why you did
20 not join it.

21 MR. CLARK: And, again, Grant, to --
22 to the extent it's based on communications
23 with counsel, you're free to say that
24 but -- but not to disclose any substance of
25 communications with counsel.

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2 A. The subject of this letter on the
3 22nd which yielded the original letter you
4 briefly showed me on the 24th as well as an
5 additional letter on the 28th identified two
6 points as I understand it. The first point is
7 what I believe is the somewhat innocuous
8 request to halt sales, not a demand in any way.
9 And the second more substantive issue has to do
10 with steps to remove Highland or a subsequent
11 derived entity from Highland from the various
12 services agreements that you had previously --
13 we had previously discussed. Neither of those
14 issues met the require- -- neither of those
15 issues led us to believe that a motion such as
16 what you've just mentioned was -- was right --

17 Q. Okay.

18 A. -- because no -- no decision has
19 been made on that.

20 Q. Okay.

21 MR. MORRIS: So I want to go back to
22 my question and move to strike as
23 nonresponsive, and I'll just ask my
24 question again.

25 BY MR. MORRIS:

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2 Q. Why did CLO HoldCo Limited decide
3 not to participate in the earlier motion that
4 was brought by the other entities that are
5 identified in Paragraph 1 that asked the court
6 to stop Highland from engaging in trades?

7 A. John, I'm so sorry. There was a
8 feedback loop that came up when you started to
9 re- -- re- -- recite -- restate your question.
10 I'm sorry.

11 Q. That's okay. Why did CLO HoldCo
12 Limited decide not to join in the earlier
13 motion where the entities listed in Paragraph 1
14 asked the court to order Highland not to make
15 any further trades? Why did they not join that
16 motion?

17 A. The -- the issue didn't rise to
18 the -- I don't believe we had formulated a
19 legal basis sufficient to justify such steps.
20 We hadn't laid the foundation necessary to --
21 to do that.

22 Q. Are you aware of what the court
23 decided?

24 A. By virtue of the original letter you
25 sent me dated the -- or show -- showed

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2 initially dated the 24th, I have a general
3 understanding of what they decided.

4 Q. Did you -- did you ever review the
5 transcript of the hearing where the other
6 parties asked the court to stop Highland from
7 engaging in any further trades on the CLOs?

8 A. I did not.

9 Q. Is there anything different about
10 the request in this letter, to the best of your
11 knowledge, from the request that was made of
12 the court just six days earlier?

13 MR. CLARK: Objection, form.

14 A. Yes. There's a -- in -- in my -- my
15 view there's a substantial difference between
16 filing an action converting a request into
17 essentially a demand versus a gentle request
18 with multiple caveats, that that request is not
19 a demand.

20 Q. Okay. Let me ask you this: Are you
21 aware -- what -- when did you first learn that
22 Highland was making trades in its capacity as
23 the servicer of the CLOs? When -- when did you
24 first learn that Highland was doing that? Ten
25 years ago, right? I mean --

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2 A. Oh. Oh. Oh, I'm -- yeah. Yeah.

3 Oh, yes. I'm sorry. Of course.

4 Q. Right? I mean, Highland has been
5 making trades on behalf of CLOs for years,
6 right?

7 A. Yes.

8 Q. And Highland was making trades on
9 behalf of CLOs throughout 2020, to the best of
10 your knowledge, right?

11 A. Yes.

12 Q. And you know when Jim Dondero was
13 still with Highland, he was making trades on
14 behalf of CLO -- on behalf of the CLOs, right?

15 A. Yes.

16 Q. And you never objected when Jim
17 Dondero was doing it; is that right?

18 A. That is correct.

19 Q. Okay. So what changed that caused
20 you in your capacity as the director of CLO
21 HoldCo to request a full stoppage of trading?

22 A. It was my understanding that because
23 of the bankruptcy and the removal of Jim
24 Dondero that the replacement decision-makers
25 did not have the expertise where I felt

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2 comfortable with them making those decisions,
3 but...

4 Q. I thought you testified earlier that
5 you weren't aware that Mr. Dondero left
6 Highland. Am I mistaken in my recollection?

7 A. I think you said in October, and
8 I -- as I -- there's some con- -- I have
9 confusion about when he left versus when he was
10 still there but other -- but he was not making
11 those trades.

12 Q. Okay. Fair enough. The bankruptcy
13 has nothing to do with your desire to stop
14 trading, right, because Highland traded for a
15 year after the bankruptcy and never took any
16 action to try to stop Highland from trading on
17 behalf of the CLOs, fair?

18 A. The -- Highland as of right now
19 isn't the same entity it was -- well, the
20 decision-making team -- the -- the financial
21 decision-making team for CLO Holdco's is no
22 longer the team I have worked with, and upon
23 discussion with counsel, we agreed -- I agreed
24 to this letter, which I did, to just maintain
25 the status quo.

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2 Q. How did you form your opinion that
3 the debtor doesn't have the expertise to
4 execute trades on behalf of the CLOs today?
5 What's the basis for that belief?

6 A. I -- as I understood it, the -- the
7 people historically making that decision were
8 no longer making that decision.

9 Q. Who besides Mr. Dondero --
10 withdrawn.

11 Who are you referring to?

12 A. Well, Mr. Dondero is one. I don't
13 know the names, but I -- I understood it to
14 mean that the group previously responsible, for
15 exam- -- for example, Hunter Covitz, including
16 Hun- -- him, were no longer involved in the
17 decision-making process, but...

18 Q. How did you -- how -- how -- who
19 gave you the information that led you to
20 conclude that Hunter Covitz was no longer
21 involved in the decision-making process?

22 A. Specifically him and that name being
23 mentioned, I -- I -- I wasn't informed of his
24 speci- -- him -- him being removed. I was
25 under the impression that the team that had

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2 previously been doing that was no longer doing
3 it.

4 Q. And what gave you that impression?

5 A. Was communications I had with my
6 attorney.

7 Q. Okay. Is there any source for your
8 information that led you to conclude that the
9 team was no longer there that was able to
10 engage in the trades on behalf of the CLOs
11 other than your attorneys?

12 A. Well, this -- this letter -- I -- I
13 think the answer is no.

14 Q. Thank you. Do you know if Jim -- do
15 you have an opinion or a view as to whether Jim
16 Seery is qualified to make trades?

17 A. This --

18 MR. CLARK: Objection, form.

19 A. I don't know -- I spoke to Jim Seery
20 earlier this week. You -- you asked me whether
21 I had his number. I said I did. That's only
22 because he called me. My phone rang with his
23 number. It was a number I did not recognize,
24 it was not in my contacts, but he left me a
25 voice mail so I called him back. Then I

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2 updated my contacts to -- to add his name so
3 now I have his name. And during that
4 conversation he informed me that he did have
5 that expertise --

6 Q. And --

7 A. -- without me making any inquiry.
8 He volunteered that.

9 Q. But you hadn't made any inquiry
10 prior to the time that you authorized the
11 sending of this letter; is that fair?

12 A. That's correct.

13 Q. Do you know whether Mr. Seery, in
14 fact, engaged in transactions on behalf of the
15 debtor since he was appointed back in January?

16 A. I do not.

17 Q. Did you ask that question prior to
18 the time you authorized the sending of this
19 letter?

20 A. I did not.

21 Q. Can you identify a single
22 transaction that Jim Seery has ever made that
23 you disagree with?

24 A. No.

25 Q. Can you identify any transaction

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2 that the debtor made on behalf of any of the
3 CLOs since the time that you understand
4 Mr. Dondero left Highland that you disagree
5 with?

6 A. No.

7 Q. Did you have any discussion with any
8 representative of any of the entities listed on
9 this document where they told you they believe
10 Jim Seery didn't have the expertise to engage
11 in transactions on behalf of the whole -- of
12 the CLOs?

13 A. You -- your question -- I'm -- I'm
14 sorry. I'm trying to be -- I'm trying to be a
15 hundred perc- -- I'm trying to be accurate
16 here.

17 Q. Let me interrupt you and just say,
18 I'm very grateful for your testimony. I know
19 this is not easy, and I do believe that you're
20 earnestly and honestly trying to answer the
21 questions the best you can. So no apologies
22 necessary anymore. If you need me to repeat
23 the question or rephrase it, just say that,
24 okay?

25 A. Please -- yes.

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2 Q. Okay.

3 A. Please -- please repeat that.

4 Q. Did you ever communicate with any
5 employee, officer, director, representative of
6 any of the entities that are on this page
7 concerning the debtor's ability to service the
8 CLOs?

9 A. I believe so.

10 Q. And can you identify the person or
11 persons?

12 A. I think it's Jim Dondero.

13 Q. Anybody else other than Mr. Dondero?

14 A. No.

15 Q. When did you have that conversation
16 or those conversations with Mr. Dondero?

17 A. This letter is dated the 22nd --

18 Q. Correct.

19 A. -- right?

20 Q. Yes.

21 A. I believe that's the Tuesday before
22 Christmas, and this would have been on the
23 21st, the Monday.

24 Q. What do you recall about your
25 conversation on the 21st regarding the

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2 substance of this particular letter?

3 A. Jim Dondero described why he
4 believed sales being made on an ongoing basis
5 after a request was made to stop was im- --
6 improper.

7 Q. Do you -- do you rely on what
8 Mr. Dondero said to you during that phone call
9 on December 21st in -- in deciding to join in
10 this particular letter?

11 A. No.

12 Q. Did you only then rely on the
13 information you obtained from counsel?

14 A. Yes. I -- I -- I -- I considered
15 this letter to be nearly the most gentle
16 request imaginable amongst lawyers to maintain
17 the status quo.

18 Q. And the request that's made in this
19 letter is perfectly consistent with what
20 Mr. Dondero told you on the 21st of December,
21 correct?

22 A. I don't -- no.

23 Q. How --

24 MR. MORRIS: Can we go to the end of
25 this letter, please. All right. Right

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2 there.

3 BY MR. MORRIS:

4 Q. Do you see the request that's in the
5 last sentence?

6 A. Yes.

7 Q. Is that the same thing that
8 Mr. Dondero told you should happen, that --
9 that there should be no further CLO
10 transactions at least until the issues raised
11 and addressed by the debtor's plan were
12 resolved substantively?

13 A. Yes.

14 Q. Is there anything that he said
15 that's inconsistent with the request that's
16 made here?

17 MR. CLARK: Objection, form.

18 A. This -- and can you -- can you show
19 me earlier parts?

20 Q. Of course. You know what, I'll
21 withdraw the question.

22 And let me see if I can do it this
23 way: In your discussion with Mr. Dondero, did
24 he indicate that he had seen a draft of this
25 letter?

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2 A. No. And I didn't -- I didn't have a
3 discussion with him. I -- I merely listened to
4 him. There was no -- I -- I had no input to
5 the conversation.

6 Q. Okay. I -- I did -- I didn't --
7 I -- I appreciate that. So he called you; is
8 that right?

9 A. We -- we called in.

10 Q. Oh, was it --

11 A. I --

12 Q. Was it --

13 A. I don't know --

14 Q. Was it --

15 A. I don't know the sequence of the
16 calls. I'm sorry.

17 Q. Was there anybody on the call other
18 than you and Mr. Dondero, the call that you're
19 describing on December 21st?

20 A. Yes, my attorney and an attorney --
21 I believe the attorney that signed this letter.

22 Q. Okay. And I just want to focus on
23 what Mr. Dondero said. Did he -- did he say
24 during the call that Highland should not be
25 engaging in any further CLO transactions?

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2 A. He took a more -- if I can
3 characterize his mental -- I looked at the
4 issue of maintaining the status quo since there
5 was somebody that was complaining about it,
6 that that -- because it -- it isn't assets of
7 Highland, it doesn't adversely affect Highland.
8 If -- if stopping the sales -- you know, my --
9 my thought was -- is if stopping the sales
10 reduces the likelihood of litigation
11 disputes -- you already saw that there was the
12 one from middle of December. I -- I thought
13 that would be the more appropriate way to go.
14 I didn't think there'd be any harm.

15 Q. And was that your --

16 A. I think -- I think Jim Dondero had a
17 more legalistic view of its impro- -- im- --
18 improper nature.

19 Q. And did he share that view with you?

20 A. On Monday, yes.

21 Q. Can you describe for me your
22 recollection of what he said about the
23 legalistic view?

24 A. Just the mention of -- all I recall
25 is in terms of -- the law associated with it

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2 was -- the Advisers Act was mentioned --

3 Q. Did you have --

4 A. -- but I don't -- I don't know what
5 that is. You know, I don't know what that is.

6 Q. And you -- and -- and you never --
7 it never occurred to you to pick up the phone
8 and -- and to speak with Mr. Seery to see why
9 it was he thought he should be engaging in
10 transactions?

11 A. No. And -- but I -- my lack of
12 volunteering a phone call to Jim Seery isn't --
13 it's -- it's because of -- I -- I thought any
14 phone call by me to Jim Seery would be
15 inappropriate because he's represented by
16 counsel. I mean, we were working on claims
17 against him --

18 Q. Okay.

19 A. -- right, so...

20 Q. Did you -- did you -- did you think
21 to instruct your lawyers to reach out to
22 Mr. Seery to actually speak to him instead of
23 just sending a letter like this and to -- and
24 to ask -- and to maybe inquire as to why he
25 thought it was appropriate to engage in

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2 transactions before they made a request six
3 days after the court threw out their suit as
4 frivolous? I'll withdraw that. That's too
5 much.

6 A few days later did you authorize
7 the sending of another letter to the debtor in
8 which you suggested that the -- the entities on
9 behoove -- on -- on whose behalf the letter was
10 sent might take steps to terminate the CLO
11 management agreements?

12 A. I did not see -- so there is a --
13 there is a December 28th letter.

14 MR. MORRIS: Let's just go to the
15 next letter, and -- and let's just call
16 that up.

17 BY MR. MORRIS:

18 Q. I think it's -- I think it's
19 actually dated December 23rd. It was the next
20 day.

21 A. Yes.

22 (SCOTT EXHIBIT 4, Letter to James A.
23 Wright, III, et al., from Gregory Demo,
24 December 24, 2020, with Exhibit A
25 Attachment, was marked for identification.)

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2 BY MR. MORRIS:

3 Q. And do you recall that the next day
4 CLO HoldCo Limited joined in another letter to
5 the debtors? Do you have that recollection?

6 A. Yes. Not -- not be- -- yes, I do,
7 but -- yes, I do.

8 Q. Did you see this letter before it
9 was sent?

10 A. I don't believe so.

11 Q. Did you authorize the sending of
12 this letter?

13 A. I gave -- I relied on my attorney to
14 guide me through this process.

15 Q. I appreciate that.

16 A. I let him make that call on this
17 letter, which is -- copies most of the prior
18 letter and then adds another issue.

19 Q. Okay. Do you have an understanding
20 of what that issue is?

21 A. Yes.

22 Q. And what is your understanding of
23 what that additional issue is?

24 A. Somewhere in this letter of the 23rd
25 there's an -- there's an -- an inclusion of

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2 a -- a statement of an -- a future intent.

3 Q. A future intent to do what?

4 A. To remove Highland as the servicer
5 of the agreements you talked to me about
6 previously.

7 Q. Can you tell me whether there's a
8 factual basis on which CLO HoldCo Limited
9 believes that the debtor should be removed as
10 the servicer of the portfolio manager of the
11 CLOs?

12 A. Yes. There are -- there are
13 multiple bases to consider subject to all the
14 other conditional language in the request of
15 these letters to consider that going forward
16 but no decision. That intent is an intent to
17 evaluate, not an intent to take any action. I
18 haven't authorized any action. I don't feel
19 comfortable with my knowledge base at this
20 time, but it's something being explored.

21 Q. So knowing everything that you know
22 as of today, you have not yet formed a decision
23 as to whether CLO HoldCo Limited will take any
24 steps to terminate Highland's portfolio
25 management agreements, correct?

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2 A. I don't -- I don't want to be
3 difficult, but I'm -- I'm confused yet again
4 with your question. But I have not -- there --
5 there are a number of cr- -- a number of issues
6 that with my nonfinance background would
7 suggest to me that they -- they may be bases
8 for -- for cause, to -- to assert a cause. And
9 I've been conferring with my attorney about
10 that, but it's very preliminary and no -- no
11 decision has been made. I -- no decision is
12 being made.

13 Q. So what -- what are the factors that
14 are causing you to consider possibly seeking to
15 begin the process of terminating the CLO
16 management agreements?

17 A. Well, I guess I would break them
18 down into maybe two categories, maybe more.
19 The one that resonates most with me -- I don't
20 know -- maybe because even though I'm a patent
21 attorney, I guess at one point I was an
22 attorney. But the thing that resonates most
23 with me --

24 Q. You are an attorney.

25 A. -- at the moment -- well, now you

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know why I'm a patent attorney and not one of
you guys. But the thing that resonates with me
the most from a legal substantive, black letter
law sort of issue is the plan for
reorganization, which we've objected to. I've
re- -- I've reviewed the objection, and that
sets forth our -- that sets forth my position,
and I consider that to be quite material. The
others are issues of practical effects of
what's happened thus far with the bankruptcy,
the termination of the experts with a long
track record of success, the soon-to-be
termination of all employees, the cancellation
of various representation agreements, things of
that nature looked at from an additive sort of
perspective.

Q. You know that -- can we refer to the
counterparties under the CLO management
agreements as the issuers? Are you familiar
with that term?

A. I -- I am familiar with the term
issuers, yes.

Q. Okay. And do you understand --

A. There's an agreement between the --

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2 I'm sorry.

3 Q. There's an agreement between the
4 issuers and Highland pursuant to which Highland
5 manages the CLO assets, right?

6 A. With res- -- yes.

7 Q. Okay. And do you understand what's
8 going to happen to those management contracts
9 in connection with the plan of reorganization?

10 A. Partially.

11 Q. What's your partial understanding?

12 A. Well, I -- I wouldn't want to
13 characterize it as a partial understanding. I
14 mean, with respect to part of the agreement.

15 Q. Okay.

16 A. Okay. Our plan objection lays out
17 our basis for objecting to steps that Highland
18 is actively taking to preclude us from the full
19 rights that we have as third-party
20 beneficiaries under that agreement, and they're
21 not de minimus. They're quite material. They
22 relate to cause issues and no-cause issues, for
23 example, as out- -- as outlined in our --
24 our -- our objections.

25 Q. Okay. Did you ever make any attempt

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2 to speak with any issuer concerning Highland's
3 performance under the CLO management
4 agreements?

5 A. No.

6 Q. Why not?

7 A. I -- I don't have any facts --
8 understand I -- I get all of the reports
9 periodically from Highland -- from Highland.
10 I -- I don't have a basis that I'm aware of to
11 complain about performance issues. This is a
12 legal issue that I'm talking about.

13 Q. So you have no basis to suggest that
14 Highland hasn't performed under the CLO
15 management agreements, correct?

16 A. Well, Highland as of right now,
17 the -- the issue really is as -- as to what's
18 next, not -- not -- I -- I don't -- I don't
19 believe I have facts that support a com- --
20 a -- an issue right now. It's -- it's --
21 it's -- it's going forward that is the problem.

22 Q. I --

23 A. That's -- you know, that's --

24 Q. Have you given any thought to
25 speaking with the issuers to try to get their

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2 views as to what they think is going to happen
3 in the future?

4 A. No.

5 Q. They're the -- they're the actual
6 direct beneficiaries under the CLO management
7 agreements, to the best of your understanding,
8 right?

9 A. Yes. Their rights may not be
10 impacted; it's CLO Holdco's rights that are
11 going to be adversely impacted. So it's -- I
12 don't know that our view is in alignment with
13 their view. But to answer your question, no,
14 we did not contact them.

15 Q. Do you have any knowledge or
16 information as to any assertion by the issuers
17 that Highland is in breach of any of the CLO
18 management agreements?

19 A. No.

20 Q. Do you have any knowledge or
21 information as to whether or not any of the
22 issuers believe that Highland is in default
23 under the CLO management agreements?

24 A. No, I don't have any of those facts.

25 Q. Are you aware that the issuers are

1 GRANT SCOTT - 1/21/2021

2 negotiating with Highland to permit Highland to
3 assume the CLO management agreements and to
4 continue operating under them?

5 A. I believe so --

6 Q. Is that --

7 A. -- but they're --

8 Q. Go ahead. I'm sorry.

9 A. As I understand it, Highland
10 wants -- Highland or its subsidiary -- or
11 its -- its -- its postbankruptcy relative --
12 post- -- excuse me, that Highland
13 postbankruptcy -- or postplan confirmation
14 wants to move forward, substitute itself for
15 the prior issuer -- no, sorry, substitute
16 itself for the prior servicer under those
17 agreements to assume those agreements but in
18 the process of assuming those agreements,
19 carving out a bunch of provisions that from a
20 legal standpoint and a potentially future
21 practical and monetary standpoint are quite
22 substantial, and that has to relate to the
23 removal rights based on cause and without
24 cause. As I understand it, that's all set
25 forth in our plan objection.

1 GRANT SCOTT - 1/21/2021

2 Q. Okay. Are you aware of a third
3 letter that was sent to Highland on behalf of
4 CLO HoldCo and the other entities that are
5 listed in this document?

6 A. The December 28th letter, is that
7 what you mean?

8 Q. It's actually December 31st, if I
9 can refresh your recollection.

10 MR. MORRIS: Can we put up Exhibit

11 F?

12 (SCOTT EXHIBIT 5, Letter to Jeffrey

13 N. Pomerantz from R. Charles Miller,
14 December 31, 2020, was marked for
15 identification.)

16 BY MR. MORRIS:

17 Q. You remember that there was a letter
18 dated on or about December 31st that was
19 sent -- oh, actually, you know, I apologize.
20 If we scroll down to the -- to the next -- to
21 the first box, there actually is no mention of
22 CLO HoldCo.

23 Are you aware that Mr. Dondero was
24 evicted from Highland's offices as of the end
25 of the year?

1 GRANT SCOTT - 1/21/2021

2 A. I -- I didn't know the time, but I
3 understand he's no longer there.

4 Q. Does CLO HoldCo Limited contend that
5 it was damaged in any way by Mr. Dondero's
6 eviction from the Highland suite of offices?

7 MR. CLARK: Objection, form.

8 A. I -- I don't have any information to
9 support that as of this time.

10 Q. It's not -- it's not a belief that
11 you hold today?

12 A. I don't have a belief of that, yes.

13 MR. MORRIS: All right. Let's take
14 a short break. I may be done. I -- I'm
15 grateful, Mr. Scott, and don't want to
16 abuse your time. Give me -- let -- just
17 let -- let's come back at 4:50, just eight
18 minutes, and if I have anything further, it
19 will be brief.

20 (Whereupon, there was a recess in
21 the proceedings from 4:42 p.m. to
22 4:49 p.m.)

23 MR. MORRIS: Okay. Mr. Scott, thank
24 you very much for your time. I have no
25 further questions.

1 GRANT SCOTT - 1/21/2021

2 THE WITNESS: Thank you.

3 MR. CLARK: We will reserve our
4 questions.

5 THE WITNESS: I appreciate it, John.

6 MR. MORRIS: Take care. Thanks for
7 your time and your -- and your diligence.
8 I do appreciate it. Take care, guys.

9 THE REPORTER: Okay.

10 MR. CLARK: Thank you.

11 MR. HOGEWOOD: No questions from us.
12 (Time Noted: 4:50 p.m.)
13
14

15 -----
16 GRANT SCOTT
17

18 Subscribed and sworn to before me
19 this day of 2021.
20

21 -----
22
23
24
25

1 GRANT SCOTT - 1/21/2021

2 C E R T I F I C A T E

3 STATE OF NORTH CAROLINA)

4) ss.:

5 COUNTY OF WAKE)

6

7 I, LISA A. WHEELER, RPR, CRR, a

8 Notary Public within and for the State of New

9 York, do hereby certify:

10 That GRANT SCOTT, the witness whose

11 deposition is hereinbefore set forth, having

12 produced satisfactory evidence of

13 identification and having been first duly sworn

14 by me, according to the emergency video

15 notarization requirements contained in G.S.

16 10B-25, and that such deposition is a true

17 record of the testimony given by such witness.

18 I further certify that I am not

19 related to any of the parties to this action by

20 blood or marriage; and that I am in no way

21 interested in the outcome of this matter.

22 IN WITNESS WHEREOF, I have hereunto

23 set my hand this 21st day of January, 2021.

24 -----

25 LISA A. WHEELER, RPR, CRR

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EXHIBIT 24

1 Grant Scott
2 IN THE UNITED STATES BANKRUPTCY COURT
3 FOR THE NORTHERN DISTRICT OF TEXAS
4 DALLAS DIVISION

5 In Re: Case No.
6 HIGHLAND CAPITAL MANAGEMENT L.P., 19-34054
7 Debtor, Chapter 11

8 _____
9 HIGHLAND CAPITAL MANAGEMENT, Adversary No.
10 L.P., 21-03003-sgi
11 Plaintiff,

12 Vs.
13 JAMES D. DONDERO,
14 Defendant.

15
16 Virtual Zoom Deposition of Grant Scott
17 Tuesday, June 1, 2021
18 At 2:00 p.m.
19
20
21
22

23 Reported by LeShaunda Cass-Byrd, CSR, RPR
24 TSG Job No. 194692
25

Grant Scott

Videoconference Deposition of Grant Scott,
pursuant to Federal Rules of Civil Procedure, before
LeShaunda Cass Byrd, CSR, RPR, a Notary of the State
of North Carolina. The Court Reporter reported the
proceeding remotely and the witness was present via
videoconference

1 Grant Scott

2 APPEARANCES OF COUNSEL:

3 On behalf of Debtor:

4 BY: GREGORY DEMO, Esq.
JOHN MORRIS, Esq.
5 Pachulski Stang Ziehl & Jones
780 Third Avenue
6 New York, New York 10017

7 BY: SHANNON McLAUGHLIN, Esq.
Latham & Watkins
8 885 Third Avenue
New York, New York 10022.

9
On behalf of the Creditors Committee:

10 BY: PAIGE MONTGOMERY, Esq.
11 Sidley Austin
2021 McKinney Avenue
12 Dallas, Texas 75201.

13 On behalf of the Witness:

14 BY: JOHN KANE, Esq.
Kane Russell Coleman & Logan
15 901 Main Street
Dallas, Texas 75202

16
17 On behalf of CLO HoldCo & the DAF:

18 BY: JONATHAN BRIDGES, Esq.
Sbaiti & Company
19 1201 Elm Street
Dallas, Texas 75270

20
21 Also Present:

22 Mark Patrick
Amelia Hurt
23 La Asia Canty, Paralegal

24

25

1 Grant Scott

2 EXAMINATION OF GRANT SCOTT

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4 By Mr. Kane 103

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9 Exhibit 8 E-mail Exchange, Bates GScott000312 19

10 Exhibit 9 Notice of Settlement 44

11 Exhibit 10 E-mail Exchange, Bates GScott000080 75

12 Exhibit 11 E-mail Exchange, Bates GScott000138 80

13 Exhibit 12 E-mail Exchange, Bates GScott000361 88

14 Exhibit 13 Assignment and Assumption of

15 Membership Interest Agreement

16 Exhibit 14 Written Resolutions of the Sole

17 Director of the Company, Dated

18 March 25, 2021 94

19 Exhibit 15 Written Resolutions of the Sole

20 Shareholder of the Company, Dated

21 March 24, 2021 97

22 Exhibit 16 Written Resolutions of the Sole

23 Shareholder of the Company, Dated

24 March 31, 2021 97

25

Grant Scott

Exhibit 17 Written Resolutions of the Sole
Shareholder of the Company, Dated
April 2, 2021

98

1 Grant Scott

2 GRANT SCOTT,

3 having been first duly sworn, was examined and

4 testified as follows:

5 EXAMINATION

6 BY MR. MORRIS:

7 Q. Good afternoon, Mr. Scott.

8 A. Good afternoon, John.

9 Q. Okay. As you recall, my name is John
10 Morris. I'm an attorney with Pachulski Stang Ziehl &
11 Jones. We represent Highland Capital Management LP, a
12 debtor in a bankruptcy case that is pending in the
13 Northern District of Texas.

14 Do you recall any of that?

15 A. Yes.

16 Q. Okay. And we are here today for your
17 deposition, and I appreciate your compliance with the
18 subpoena. Just a few ground rules to remind you, I'm
19 going to ask you a series of questions, and it's
20 important that you allow me to finish my question
21 before you begin your answer; is that fair?

22 A. Yes.

23 Q. And I will attempt to give you the same
24 courtesy, but if for some reason I step on your words,
25 just let me know that because I don't mean to cut you

1 Grant Scott

2 off. Okay?

3 A. Okay.

4 Q. If there's anything that I ask you that you
5 do not understand, will you let me know?

6 A. Yes, sir.

7 Q. If you need a break at any time, will you
8 let me know?

9 A. Yes.

10 Q. Okay. Because this deposition is being
11 conducted remotely, we are going to be putting
12 documents on the screen. I'm not attempting to trick
13 you in any way. If you believe there is any of
14 portion of a document that you need to see, either to
15 put something in context or to refresh your
16 recollection, I encourage to let me know that, and I
17 will be happy to accommodate you. Okay?

18 A. Okay.

19 Q. Okay. Have you seen the subpoena that the
20 debtors served on your lawyer in this case?

21 A. The one relating to my deposition?

22 Q. Correct.

23 A. Yes.

24 Q. And are you here today pursuant to that
25 subpoena?

1 Grant Scott

2 A. Yes.

3 Q. So today's deposition concerns a particular
4 motion that the debtor filed recently where the debtor
5 is seeking to hold certain individuals and entities in
6 contempt of court. Have you seen or reviewed the
7 debtor's motion that was filed?

8 A. I have seen the e-mails which I kept, but I
9 have not read them.

10 Q. Okay. I want to just begin with some
11 background.

12 MR. MORRIS: And then I would ask Ms.
13 Canty to put up what we will mark as
14 Exhibit -- you know, let's pick up the
15 numbering from this morning, La Asia. Did
16 we use 7 this morning?

17 Actually, this is going to be Exhibit
18 1. It's the same document that we had this
19 morning.

20 MS. CANTY: Yes.

21 MR. MORRIS: We will call it Exhibit
22 1, and it's an organizational chart. If we
23 can just put that on the screen.

24 (Deposition Exhibit 1 was marked for
25 identification.)

1 Grant Scott

2 BY MR. MORRIS:

3 Q. Okay. Have you seen this before,
4 Mr. Scott?

5 A. Yes.

6 Q. Do you know what it is?

7 A. It's the -- yes. The DAF CLO HoldCo
8 structure chart.

9 Q. And this is structure chart that you
10 produced in response to the subpoena; is that right?

11 A. Correct.

12 Q. You are familiar with the gentleman named
13 Mark Patrick; is that right?

14 A. Yes.

15 Q. Is it your understanding that Mr. Patrick
16 was one of the individuals that helped establish the
17 hierarchy that is depicted on Exhibit 1?

18 A. Yes.

19 Q. And what is the basis for that
20 understanding?

21 A. That goes back many years to the
22 origination of my role.

23 Q. Okay. And do you recall that you assumed
24 your role in or around 2012?

25 A. Yes.

1 Grant Scott

2 Q. Okay. Did you know Mr. Patrick prior to
3 the time that you assumed your role?

4 A. I did not.

5 Q. Okay. Do you know -- withdrawn.

6 Do you have any knowledge as to whether
7 anybody other than Mr. Patrick helped establish the
8 hierarchy that is depicted on Exhibit 1?

9 A. There was a law firm name that came to
10 mind, and there was an expert, I gather, a lawyer that
11 was familiar with charitable entities that I believe
12 was involved.

13 Q. Can you identify any -- withdrawn.

14 At the time that you understood Mr. Patrick
15 had helped to create this hierarchy, did you
16 understand who employed Mr. Patrick?

17 A. Yes. I believe so.

18 Q. Who did you believe Mr. Patrick worked for
19 at that time?

20 A. Highland Capital Management.

21 Q. Can you identify any other person at
22 Highland Capital Management who was involved in the
23 creation of this hierarchy?

24 A. No.

25 Q. Okay. Now for looking at the hierarchy

1 Grant Scott

2 here, for the period for approximately 10 years prior
3 to March 24th, 2021, you served as the managing member
4 of the charitable DAF GP, LLC, correct?

5 A. Correct.

6 Q. And for approximately 10 years prior to
7 March 30 -- 20 -- withdrawn.

8 For approximately 10 years prior to March
9 24th, 2021, you were the sole director of charitable
10 DAF HoldCo, LTD, correct?

11 A. Correct.

12 Q. And for approximately 10 years prior to
13 March 24th, 2021, you were the sole director of
14 charitable DAF Fund LP, correct?

15 A. I believe that is correct.

16 Q. And for approximately 10 years prior to
17 March 24, 2021, you served as the sole director of CLO
18 HoldCo Limited, correct?

19 A. Yes. That is correct.

20 Q. Did you serve in any capacity for any other
21 entity that is depicted on this sheet at any time
22 prior to March 24th, 2021?

23 A. If you go -- if you look at the top of that
24 chart where it's directed at the charitable giving
25 components, I had some involvement with various

1 Grant Scott

2 members of some of those organizations.

3 Q. And would they be the ones that are
4 labelled as third parties or as supporting
5 organizations?

6 A. The -- the third party organizations.
7 And -- and possibly the supporting organizations.

8 Q. Do you know what the difference is between
9 a third party and a supporting organization as those
10 phrases are used on Exhibit 1?

11 A. I don't recall anymore what the delineation
12 is between those two.

13 Q. Okay. Do you hold any position today with
14 any of the entities that are depicted on Exhibit 1?

15 A. I do not -- I do not believe so. Well, I
16 believe technically, I'm still -- I may still be a
17 director of CLO HoldCo, but I -- I'm not certain of
18 the status as of today.

19 Q. Is there a particular reason why you may
20 remain today as a director of CLO HoldCo Limited?

21 A. I don't know if the -- I don't know if the
22 transfer after my resignation has been completely
23 finalized, and I haven't -- yeah. I don't know how
24 close it is to being completely finalized. I'm not --
25 I'm not sure.

1 Grant Scott

2 Q. But your intent is to resign as the
3 director of CLO HoldCo Limited; is that right?

4 A. Yes.

5 Q. And the only reason that that hasn't
6 happened yet, is it fair to say, is for administrative
7 reasons?

8 MR. BRIDGES: Objection. Assumes
9 facts not in evidence.

10 BY MR. MORRIS:

11 Q. You can answer.

12 A. I --

13 Q. Withdrawn. I will ask a different
14 question.

15 Do you know why your intended resignation
16 from CLO HoldCo Limited has not yet become effective?

17 MR. BRIDGES: The same objection.

18 Facts not in evidence.

19 BY MR. MORRIS:

20 Q. You can go ahead.

21 MR. KANE: I object to form, also.

22 Grant, go ahead.

23 THE WITNESS: I do not.

24 BY MR. MORRIS:

25 Q. Okay. Do you hold any positions of any

1 Grant Scott

2 kind today with any entity that you believe is either
3 directly or indirectly owned or controlled by
4 Mr. Dondero?

5 A. I don't believe so.

6 Q. Do you have -- I'm just going to explore
7 that for a little bit.

8 Do you know have -- do you know whether you
9 continue to HoldCo any position with any NexBank
10 entity?

11 A. I'm not in -- no, I don't have any
12 involvement with NexBank.

13 Q. Okay.

14 MR. KANE: Hey, John, can you shed a
15 little light on why that is relevant?

16 MR. MORRIS: I'm just trying to find
17 connections between Mr. Scott and
18 Mr. Dondero because I -- I just -- I
19 think -- I think the purpose of the
20 deposition is to try to -- to try to deduce
21 facts that are related to whether or not
22 Mr. Dondero is going to be a responsible
23 party under the contempt motion. So I'm
24 just looking for --

25 MR. KANE: I understand. I'm just

1 Grant Scott

2 trying to figure out Grant's -- you know,
3 whether he has a --

4 MR. MORRIS: That is all right. I'm
5 moving on anyway.

6 MR. KANE: Appreciate it.

7 BY MR. MORRIS:

8 Q. Now looking at the chart, Mr. Scott, I
9 believe you testified that you were either the
10 managing member or a director of each of the DAF
11 entities and CLO HoldCo Limited.

12 Do I have that right?

13 A. I believe that is correct.

14 Q. All right. Is it your understanding that
15 Mr. --

16 A. Excuse me. I am sorry. Currently or was?

17 Q. Was. Up until March 24th.

18 A. Okay. Correct.

19 Q. All right. Let me ask the question again
20 so it's clean.

21 Did you serve as either the managing member
22 or the director for each of the charitable DAF
23 entities and the CLO HoldCo Limited entity for
24 approximately 10 years prior to March 24th, 2021?

25 MR. KANE: Objection. Form. Go

1 Grant Scott

2 ahead, Grant.

3 (Reporter clarification.)

4 THE WITNESS: I believe so.

5 BY MR. MORRIS:

6 Q. And is it your understanding that Mr. Mark
7 Patrick replaced you in those capacities on or about
8 March 24th, 2021?

9 A. It's my understanding that on March 24th,
10 the management shares that I had previously -- that
11 had been in my name were transferred to him. I am not
12 sure how that impacts the current status in the
13 various other entities.

14 Q. Okay. During the time that you served as
15 the managing member of the charitable DAF GP LLC, that
16 entity had no officers or employees, correct?

17 A. I believe that is correct.

18 MR. KANE: Object to the form.

19 BY MR. MORRIS:

20 Q. And you served as the sole director of that
21 entity during the time that you served as the
22 director, correct?

23 A. I believe that is correct.

24 Q. And during the period of time that you
25 served as a director of charitable DAF HoldCo Limited,

1 Grant Scott

2 you were the only person to serve in that capacity; is
3 that correct?

4 A. I believe so.

5 Q. And during the period that you served as
6 director of charitable DAF HoldCo Limited, that entity
7 had no officers or employees, correct?

8 A. I believe that is correct.

9 Q. During the time that you served as a
10 director of charitable DAF Fund LP, you were the sole
11 director of that entity, correct?

12 A. Correct.

13 Q. And during the time that you served as the
14 sole director of charitable DAF Fund LP, that entity
15 had no officers or employees, correct?

16 A. I believe that is correct.

17 Q. You served as the sole director of CLO
18 HoldCo Limited; is that right?

19 A. Yes. That is correct.

20 Q. And during the period that you served as
21 the sole director of CLO HoldCo Limited, that entity
22 had no officers or employees, correct?

23 A. That is correct.

24 Q. Is that why the DAF had certain agreements
25 with Highland Capital Management LP pursuant to which

1 Grant Scott

2 HCMLP provided back office and advisory and investment
3 services?

4 MR. KANE: Objection. Form.

5 THE WITNESS: I think that is
6 correct.

7 BY MR. MORRIS:

8 Q. Do you recall that that DAF had agreements
9 with Highland Capital Management that were amended and
10 restated in 2014?

11 MR. KANE: Objection. Form.

12 THE WITNESS: I understand there were
13 various agreements over the years that had
14 been restated. I'm not entirely sure
15 anymore of the dates that we received
16 that --

17 MR. MORRIS: Okay. Let's mark --

18 THE WITNESS: I'm sorry?

19 MR. MORRIS: Let's mark as Exhibit

20 8 --

21 MR. BRIDGES: Objection. Objection.
22 Please let the witness answer his question.

23 MR. MORRIS: Let's mark this --

24 MR. BRIDGES: No. Please allow the
25 witness to continue his answer.

1 Grant Scott

2 BY MR. MORRIS:

3 Q. Grant, do you have anything else to add?

4 A. You had asked me -- you asked about a
5 specific date, I think, 2014. I just -- I don't know
6 what the dates are or were.

7 Q. That is what I heard you say. Is there
8 anything else that you have to add?

9 A. No, I don't -- I don't think so.

10 Q. I didn't think so either.

11 MR. MORRIS: Let's go to Exhibit 8,
12 please, the next document.

13 (Deposition Exhibit 8 was marked for
14 identification.)

15 MR. MORRIS: Okay. If we could just
16 scroll down a little bit. Just to the
17 e-mail.

18 BY MR. MORRIS:

19 Q. All right. Were you familiar with Caitlin
20 Nelson and Helen Kim and Thomas Surgent and David Klos
21 in and around August 2004?

22 A. I believe they were all Highland employees.

23 Q. Okay.

24 MR. MORRIS: Can we just scroll up to
25 the next e-mail, please?

1 Grant Scott

2 BY MR. MORRIS:

3 Q. Okay. Do you see that Mrs. Kim sends you
4 an e-mail on August 26th, 2014?

5 A. Yes. I see that.

6 Q. And do you see that she had attached for
7 your review and execution, drafts of an amended and
8 restated service agreement and amended and restated
9 advisory agreement and GP resolutions?

10 A. I do see that.

11 Q. Okay. Do you have any recollection as to
12 whose idea it was to amend and restate those
13 agreements at that moment in time?

14 A. I do not.

15 Q. Do you have any recollection as to why
16 those agreements were amended and restated at that
17 time?

18 A. No, I do not.

19 Q. Okay. Let's just scroll down and just show
20 Mr. Scott the agreements. I'm not going to ask
21 anything substantive about it. But do you see here is
22 the -- if we can stop right there -- the Amended and
23 Restated Service Agreement that is dated from the
24 first day of July, 2014, and it's between the DAF
25 Fund -- the charitable DAF Fund LP, the charitable DAF

1 Grant Scott

2 GP LLC, as well as Highland Capital Management LP.

3 Do you see that?

4 A. I do see that.

5 Q. Do you recall that the entity that is
6 commonly referred to as the DAF had a service
7 agreement with Highland Capital Management LP?

8 A. I believe that is correct. Yes.

9 Q. Do you recall whether -- whether the
10 service agreement was ever the subject of any
11 negotiations?

12 A. I don't know.

13 Q. Did you participate in any negotiations
14 concerning the service agreement that was entered --
15 entered in between the entity known as the DAF and
16 Highland Capital Management LP?

17 MR. KANE: Objection to form.

18 John, will you clarify the time
19 period?

20 BY MR. MORRIS:

21 Q. Right here. 2014.

22 A. Sir, I don't recall anything about this
23 with respect to 2014.

24 Q. Do you know if -- if the agreement was ever
25 amended at any time after 2014? And when I use the

1 Grant Scott

2 phrase "agreement," I'm specifically referring to the
3 Amended and Restated Service Agreement that we are
4 looking at.

5 A. I believe -- I think there was a further
6 amended and restated agreement.

7 Q. Okay. Did you participate in any
8 negotiations concerning that further amended and
9 restated agreement?

10 A. I don't remember.

11 Q. Do you remember offering any comments
12 concerning any subsequent amendment or restatement?

13 A. I don't -- I don't remember.

14 Q. Did you ever hire outside counsel to assist
15 you in the negotiation of any service agreements with
16 Highland Capital Management LP?

17 A. I did not.

18 Q. Do you -- do you recall who prepared each
19 of the service agreements to which the DAF was a
20 party?

21 A. I don't remember.

22 Q. To the best of your recollection, would it
23 have been inhouse counsel at Highland Capital
24 Management?

25 MR. KANE: Objection. Form.

1 Grant Scott

2 THE WITNESS: I don't -- I don't

3 know.

4 BY MR. MORRIS:

5 Q. Can you recall the name of any law firm
6 that was involved in the drafting or the negotiation
7 of any service agreement between the entity known as
8 the DAF and Highland Capital Management LP?

9 MR. KANE: Objection. Form.

10 THE WITNESS: I don't remember any.

11 BY MR. MORRIS:

12 Q. Can you recall during your tenure as the
13 managing member of the DAF GP LLC, whether there was
14 any particular term or provision in any service
15 agreement that was the subject of negotiation or even
16 discussion?

17 A. I don't remember those -- any of those
18 discussions.

19 Q. Do you know if they took place or you just
20 can't remember them?

21 A. I just can't remember them.

22 Q. Do you recall ever seeing multiple drafts
23 of any service agreement that you -- withdrawn.

24 Did you personally sign service agreements
25 on behalf of the entity known as the DAF?

1 Grant Scott

2 A. I believe so.

3 Q. And the agreements that you signed on
4 behalf of that entity, were any of them -- were there
5 multiple drafts of any such agreement?

6 A. There were frequently multiple drafts or
7 agreements. But I just don't remember them.

8 Q. Do you remember whether you personally ever
9 provided any comments to any particular draft?

10 A. I do not.

11 Q. Let me ask you this: Are you familiar with
12 the phrase "arm's length negotiations"?

13 A. Yes.

14 Q. And can you tell me what your understanding
15 is of an arm's length negotiation?

16 A. Well, it would depend on the nature of the
17 parties. For example, a -- two strangers would
18 have -- arm's length would differ from the nature of
19 an agreement between parties maybe having fiduciary or
20 related obligations.

21 Q. Let me ask you this --

22 A. I don't know what the black -- I don't know
23 what the blackball definition is to that term.

24 Q. Would you agree that arm's length
25 negotiations take place between two parties that are

1 Grant Scott

2 acting out of their own self interest?

3 MR. KANE: Objection.

4 MR. BRIDGES: Objection to form and
5 foundation.

6 BY MR. MORRIS:

7 Q. Withdrawn. Withdrawn.

8 MR. BRIDGES: Calls for a legal
9 opinion.

10 BY MR. MORRIS:

11 Q. Mr. Scott, do you believe that the service
12 agreements between the entity known as the DAF and
13 the -- and Highland Capital Management LP were arm's
14 length agreements?

15 MR. BRIDGES: Objection. Again, lack
16 of foundation, calls for a legal opinion.

17 MR. MORRIS: Okay. I'm not asking
18 for a legal opinion. I'm asking for
19 Mr. Scott's view of it, so I will try one
20 more time.

21 BY MR. MORRIS:

22 Q. Mr. Scott, do you believe that the service
23 agreements between the DAF and HCMLP were the subject
24 and result of arm's length negotiations?

25 MR. BRIDGES: Objection. Foundation,

1 Grant Scott

2 calls for legal opinion.

3 BY MR. MORRIS:

4 Q. You can answer, sir.

5 A. I don't have any reason to believe they
6 weren't. But I --

7 Q. Well --

8 A. I don't recall them. I -- I can't give --
9 I mean, I don't know.

10 Q. Did get any advice from anybody at any time
11 before entering into the agreement on behalf of the
12 DAF?

13 MR. BRIDGES: Objection to form.

14 THE WITNESS: With respect to
15 agreements generally, I often received
16 advice, sometimes in writing, sometimes by
17 telephone. I just -- with respect to this
18 agreement and -- I just don't recall.

19 BY MR. MORRIS:

20 Q. Yeah, okay. Maybe I asked a bad question,
21 so let me try again, Mr. Scott.

22 Do you recall whether you ever got any
23 advice from anybody at any time with respect to any
24 service agreement that you entered into on behalf of
25 the entity known as the DAF and HCMLP?

1 Grant Scott

2 MR. BRIDGES: Objection, asked and
3 answered.

4 MR. KANE: Form.

5 BY MR. MORRIS:

6 Q. You can answer sir.

7 A. Yes, I just -- I don't recall.

8 Q. Okay. How about with respect to the
9 advisory agreement? Can we scroll down to page -- I
10 think it's 341? Oh, no, those are the resolutions.

11 Did Highland Capital Management take
12 responsibility for preparing the corporate resolutions
13 for the DAF entities and CLO HoldCo Limited?

14 MR. BRIDGES: Objection, foundation.

15 MR. KANE: Object to the form.

16 BY MR. MORRIS:

17 Q. You can answer, sir.

18 A. Do I know who prepared those documents?

19 Q. Yeah.

20 A. I don't.

21 Q. Did you prepare -- have you ever prepared
22 any corporate resolutions for any of the DAF entities
23 or CLO HoldCo Limited?

24 A. I have not.

25 Q. To the best of your knowledge, have all of

1 Grant Scott

2 the corporate resolutions for each of the DAF entities
3 and CLO HoldCo Limited been prepared by inhouse
4 counsel at HCMLP?

5 MR. BRIDGES: Objection. Form.

6 THE WITNESS: I don't know the
7 division of labor within HCMLP, whether it
8 was inhouse and/or outside counsel. I
9 just -- I just don't know.

10 BY MR. MORRIS:

11 Q. Are you aware that inhouse counsel prepared
12 resolutions on behalf of the DAF entities and CLO
13 HoldCo Limited?

14 MR. BRIDGES: Objection. Form.

15 THE WITNESS: Yes.

16 BY MR. MORRIS:

17 Q. You are aware of that, right?

18 A. I believe inhouse counsel was -- no,
19 that's -- I've frequently worked with inhouse counsel.
20 I -- but I just don't know with respect to these
21 agreements whether I worked with them on -- on these
22 agreements. I just don't have a present recollection
23 of any of this.

24 Q. And I'm just asking if you have a present
25 recollection of anybody other than inhouse counsel

1 Grant Scott

2 ever preparing any resolutions for any of the DAF
3 entities or CLO HoldCo Limited?

4 MR. BRIDGES: Objection. Asked and
5 answered.

6 MR. KANE: Objection. Form.

7 BY MR. MORRIS:

8 Q. You can answer, Mr. Scott.

9 A. It's -- it's conceivable that documents
10 were forwarded to me exclusively, but who prepared
11 them in the background? I don't know.

12 Q. Okay. I don't want to know what's
13 conceivable. I'm again, asking you to focus on what
14 you know or what you don't know or what you recall.

15 Do you have any recollection in your mind
16 of anybody other than Highland inhouse counsel
17 preparing any resolutions on behalf of any DAF entity
18 or CLO HoldCo, Limited?

19 MR. KANE: Objection to form.

20 He has answered that question three
21 times.

22 MR. MORRIS: He has not. But thank
23 you. He told me --

24 BY MR. MORRIS:

25 Q. Just ask it again -- answer again, please.

1 Grant Scott

2 A. Sir, inhouse counsel can -- let's say
3 inhouse counsel exclusively provided me with all of
4 the agreements. I don't necessarily know who prepared
5 them. I thought that's what you were asking me. I'm
6 sorry.

7 Q. From the time you assumed the role of sole
8 authorized representative of the DAF and CLO HoldCo
9 through January 1st, 2021, can you think of any
10 resolution or consent or corporate document that was
11 not prepared by HCMLP?

12 MR. KANE: Objection. Form.

13 THE WITNESS: If "prepared" means it
14 was forwarded to me by them, then I am -- I
15 don't recall receiving any documents
16 outside them as -- outside of that conduit
17 of -- of information flow, I guess.

18 BY MR. MORRIS:

19 Q. Okay. And during that same period of time,
20 can you think of any resolution or consent or
21 corporate document that you signed after you
22 personally had provided substantive comments or asked
23 for changes?

24 MR. BRIDGES: Objection. Asked and
25 answered.

1 Grant Scott

2 THE WITNESS: I don't -- I don't

3 recall.

4 BY MR. MORRIS:

5 Q. Okay. From the time you assumed your role
6 as the sole authorized representative of the DAF and
7 CLO HoldCo through the beginning of this year, can you
8 think of any resolution or consent or other corporate
9 document that you signed where you or the DAF or
10 CLO HoldCo obtained independent counsel?

11 MR. BRIDGES: Objection. Asked and
12 answered.

13 MR. KANE: Objection to form.

14 THE WITNESS: Since January 1st of
15 this year?

16 BY MR. MORRIS:

17 Q. Prior to January 1st of this year.

18 MR. BRIDGES: Same objection. Asked
19 and answered.

20 THE WITNESS: Yeah, I don't recall.

21 BY MR. MORRIS:

22 Q. Okay. Do you recall that I took your
23 deposition back in January; is that right, sir?

24 A. Correct.

25 Q. And do you recall that you testified that

1 Grant Scott

2 during the two-week period leading up to the
3 deposition you discussed the possibility of resigning
4 from your positions with Mr. Patrick?

5 A. Yes. I'm not sure -- I'm not sure of the
6 exact timing. We had -- we had multiple conversations
7 about it.

8 Q. When was the first time you thought about
9 resigning?

10 A. The -- I don't know the exact date. I know
11 the event. It was the day I -- I had a conversation
12 with my -- my attorney, John Kane, about.

13 MR. KANE: Grant, hold on. You don't
14 need to have any discussions about
15 conversations between you and counsel.
16 That's attorney client privileged.

17 THE WITNESS: Understood. I'm sorry.

18 It's when I became aware of the
19 outcome of the escrow hearing sometime in I
20 guess early or mid 2020.

21 BY MR. MORRIS:

22 Q. And can you describe for me your
23 understanding of what the escrow hearing was about?

24 A. So I had agreed to allow certain CLO HoldCo
25 and calculated assets to be put in the court registry,

1 Grant Scott

2 and there was a motion that was made to have those
3 released. There was an evidentiary hearing that my
4 attorney attended -- or rather CLO HoldCo's attorney
5 attended, John Kane, and based on our discussions of
6 the outcome, I began contemplating my -- my
7 resignation.

8 Q. And what about the outcome that prompted
9 you to consider resigning?

10 A. It -- it was the first time, I guess, where
11 I thought my friendship with Jim Dondero would likely
12 adverse or could adversely affect CLO HoldCo from the
13 standpoint of demonstrating independence. I thought
14 maybe I -- yeah.

15 Q. Did -- did you and Mr. Dondero have a
16 conversation at around the time of the escrow hearing
17 that caused you concern about your relationship with
18 Mr. Dondero?

19 A. It wasn't with respect to concern over my
20 relationship with Mr. Dondero. It -- it was my
21 concern about CLO HoldCo. I'm sorry, I didn't
22 understand your question.

23 Q. I may have misunderstood. So what was your
24 concern about CLO HoldCo?

25 MR. KANE: Objection. Asked and

1 Grant Scott

2 answered.

3 BY MR. MORRIS:

4 Q. You can answer, sir.

5 A. My concern was that my friendship with
6 Jim Dondero would eventually provide a presumption
7 that anything that I did in my role was in some way
8 influenced by my friendship and not independence.

9 And so I -- that's when I started thinking
10 about resigning. That was one of the reasons why I
11 was thinking about resigning, but that's -- that's
12 when it began, to my recollection.

13 Q. And what were the other reasons that you
14 can recall that caused him to consider resigning at
15 around the time of the escrow hearing?

16 A. Around the escrow hearing that was at -- it
17 was later.

18 Q. When was the next time that you recall
19 thinking again about the possibility of resigning?

20 A. Well, there was a -- I mean, it was as 2020
21 went on, I guess maybe over the course of about six
22 months, there were certain developments during that
23 time that led me to have other reasons for thinking --
24 resigning was something I should -- I should do.

25 Q. Were you -- were you ever concerned prior

1 Grant Scott

2 to the date that you gave notice of your intent to
3 resign, that you didn't have the ability to act
4 independently from what Mr. Dondero wanted you to do?

5 A. No.

6 MR. KANE: Object to form.

7 THE WITNESS: If I understand your
8 question -- well, actually could you repeat
9 that question.

10 BY MR. MORRIS:

11 Q. You know, I'll try and get to specific
12 conversations. That might be the better way to deal
13 with this.

14 Do you recall that there came a point in
15 time when CLO HoldCo filed an objection to a proposed
16 settlement with the group of entities known as
17 HarbourVest?

18 A. Yes. CLO HoldCo filed an objection. Yes.

19 Q. And -- and do you recall that prior to the
20 hearing where the Court was going to consider whether
21 or not to approve the HarbourVest settlement, you
22 caused CLO HoldCo to withdraw the objection?

23 A. I authorized the withdraw.

24 Q. And did you believe that you were acting in
25 CLO HoldCo's best interest when you made the decision

1 Grant Scott

2 to withdraw CLO HoldCo's objection to the HarbourVest
3 settlement?

4 A. I was following counsels' advice,
5 CLO HoldCo's counsel's advise. So...

6 MR. KANE: Be careful, Grant.

7 BY MR. MORRIS:

8 Q. I'm just asking you if you believed at the
9 time that you made the decision you were acting in
10 CLO HoldCo's best interest?

11 MR. BRIDGES: Objection. Foundation.

12 THE WITNESS: I believe --

13 BY MR. MORRIS:

14 Q. What is your answer, sir?

15 A. Yes, I believe I was acting in CLO HoldCo's
16 best interest.

17 Q. Did you have any motivation to withdraw
18 CLO HoldCo's objection to the HarbourVest settlement
19 other than your belief that you thought that was the
20 right thing to do, based on the advice of counsel that
21 you received and your own assessment of the situation?

22 MR. BRIDGES: Objection. Form,
23 foundation, compound.

24 MR. KANE: Objection, form.

25 BY MR. MORRIS:

1 Grant Scott

2 Q. You can answer, sir.

3 A. Yes. I was following advice of counsel,
4 and I thought that was the best thing to do.

5 Q. You thought you were doing the right thing,
6 right?

7 A. At that time, yes.

8 Q. Did you ever discuss your decision to
9 withdraw CLO HoldCo's objection to the HarbourVest
10 settlement with Mr. Dondero?

11 A. Decision? No.

12 Q. Did you discuss with Mr. Dondero the fact
13 that the objection had been withdrawn at your
14 direction?

15 A. Yes.

16 Q. Can you tell me everything you remember
17 about your communications with Mr. Dondero on that
18 topic?

19 A. He just asked whether I had indeed
20 authorized it. That's it.

21 Q. That's the only question that he asked?

22 A. Yes. And I said yes.

23 Q. Did he -- did he suggest that you had acted
24 inappropriately in any way?

25 A. He didn't make any suggestion.

1 Grant Scott

2 Q. Did he say that you had acted
3 inappropriately?

4 A. No.

5 Q. Did he suggest that you had breached your
6 fiduciary duties to anybody?

7 MR. BRIDGES: Objection. Asked and
8 answered.

9 BY MR. MORRIS:

10 Q. You can answer, sir.

11 A. He just wanted to know if I had in fact
12 authorized it, and I said yes. And then the
13 conversation was over.

14 Q. Okay. Do you recall that there came a
15 subsequent time -- actually withdrawn.

16 Before that, do you recall that you
17 authorized CLO HoldCo to amend its proof of claim?

18 A. Yes.

19 Q. And do you remember that pursuant to the
20 amended proof of claim, the value of the claim was
21 reduced to zero?

22 A. That is correct.

23 Q. Did you ever discuss with Mr. Dondero the
24 amended proof of claim?

25 A. No.

1 Grant Scott

2 Q. You never had a conversation with him about
3 the decision to amend the proof of claim?

4 A. No, I don't think so.

5 Q. And you never discussed with him your
6 decision to reduce the proof of claim to zero dollars?

7 MR. BRIDGES: Objection to form.

8 THE WITNESS: I don't believe so.

9 BY MR. MORRIS:

10 Q. Okay. Do you recall that in late January,
11 CLO HoldCo was a defendant in a lawsuit that was
12 commenced by the debtor?

13 A. Yes.

14 Q. And do you recall that you authorized
15 CLO HoldCo to enter into a settlement agreement with
16 the debtor?

17 A. Correct.

18 Q. Did you ever discuss that settlement
19 agreement with Mr. Dondero?

20 A. I was on a phone call where the agreement
21 was discussed.

22 Q. And what do you recall about the
23 discussions?

24 MR. BRIDGES: Objection to the
25 extent -- to the extent that lawyers were

1 Grant Scott

2 privy to those discussions. We haven't
3 made that clear yet.

4 THE WITNESS: I'm sorry. I had a
5 conversation -- well, actually, I
6 participated in a call. I was on the call.
7 A number of the attorneys were on the call.

8 MR. BRIDGES: Objection. Objection.
9 Privileged. On behalf of CLO HoldCo and
10 the DAF, I'm instructing the witness not to
11 answer that question.

12 MR. MORRIS: He is not your client,
13 number 1. Number 2, he hasn't identified
14 who was on the call. How are you doing
15 this? How are you doing this? He hasn't
16 even told you who was on the call.

17 MR. BRIDGES: I'm happy to answer
18 your question if you don't shout over my
19 answer.

20 The privilege belongs to the
21 entities, not to him, and those entities
22 are my clients, I'm asserting a privilege.

23 MR. MORRIS: You don't --

24 BY MR. MORRIS:

25 Q. Mr. -- Mr. Scott, can you please tell me

1 Grant Scott

2 who was on the call?

3 THE WITNESS: Am I allowed to answer?

4 MR. BRIDGES: Yes, you are. You can
5 answer that question, who was on the call.

6 THE WITNESS: Oh. John Kane was on
7 the call. Jim Dondero was on the call. I
8 was on the call, and there were at least
9 two other attorneys on the call, but I'm
10 not -- I'm not sure who -- I'm not sure who
11 they were -- I mean, their names.

12 BY MR. MORRIS:

13 Q. What was the subject matter of the call?

14 A. The call was to give clarification of a --
15 on how a lack of communication had occurred, and that
16 communication related to --

17 MR. BRIDGES: Objection. Objection.
18 Just the subject matter is all that you can
19 answer without violating privilege here,
20 the general subject matter.

21 THE WITNESS: The general subject
22 matter related to the flow of information
23 between the time I settled, signed off on
24 the --

25 MR. KANE: I think -- Grant, you're

1 Grant Scott

2 going -- you're going too specific.

3 Talking about the general subject matter of
4 the call, so you avoid privilege issues.

5 Just big picture.

6 MR. BRIDGES: Flow of information
7 sounds like a big picture. Mr. Morris, I
8 think we're done on this line of
9 questioning.

10 BY MR. MORRIS:

11 Q. Mr. Scott, at the time of this
12 conversation, had CLO HoldCo already settled with the
13 debtor?

14 A. Yes.

15 Q. So CLO HoldCo was no longer a defendant in
16 the litigation; is that right?

17 A. Correct.

18 Q. Okay. Can you tell me what was discussed
19 during the conversation?

20 MR. BRIDGES: Objection. Privileged
21 for the same reasons we just discussed. I
22 am instructing the witness not to answer
23 because the privilege belongs to CLO HoldCo
24 and the DAF.

25 BY MR. MORRIS:

1 Grant Scott

2 Q. Are you going to follow that instruction,
3 Mr. Scott?

4 A. Yes.

5 Q. Did you ever have a discussion other than
6 the one that counsel is preventing you from describing
7 with Mr. Dondero on the subject of CLO HoldCo's
8 settlement with the debtor?

9 MR. BRIDGES: Objection to the set
10 up, to the lack of foundation to that
11 question.

12 Sir, if you've got an issue with my
13 privilege objection, please feel free to
14 explain. If there's a factual mistake you
15 think I'm making, please feel free to
16 explain.

17 But -- but using pejoratives to
18 describe the objection to the witness is
19 improper. I object to it.

20 MR. MORRIS: Okay. That's fine. I
21 don't see what -- you prevented him from
22 answering the question, right? So I don't
23 know what's pejorative. Your sense of
24 pejorative is very different from mine.

25 BY MR. MORRIS:

1 Grant Scott

2 Q. Mr. -- Mr. Scott, did you have any other
3 conversation with Mr. Dondero besides the one that I'm
4 not being allowed to inquire about?

5 A. I'm sorry, is there any objection to my
6 answer?

7 Q. No.

8 A. No, I do not.

9 Q. Did you resign -- did you give notice of
10 your intent to resign at around the same time that you
11 had this conversation with all of the lawyers?

12 A. No. It was beforehand.

13 Q. Okay. Let's -- let's put up the settlement
14 agreement first. I think it's the next exhibit,
15 Exhibit 9?

16 (Deposition Exhibit 9 was marked for
17 identification.)

18 BY MR. MORRIS:

19 Q. Okay. Just to refresh your recollection,
20 sir, do you see that this is -- if we can just scroll
21 down a little bit, it's dated January 26th.

22 And do you see it's signed by your lawyer
23 and my law firm?

24 A. Correct.

25 Q. And if we can scroll down to the agreement

1 Grant Scott

2 itself, is that the agreement that you entered into on
3 behalf of CLO HoldCo, on or around January 26th, 2021?

4 A. I believe so.

5 Q. And did you tell Mr. Dondero of your
6 intention to enter into this agreement before you did
7 so?

8 A. No.

9 Q. And Mr. Dondero never told you that he
10 disagreed with your decision to enter into this
11 agreement; is that right?

12 MR. KANE: Objection to form.

13 THE WITNESS: It's correct that he
14 never did.

15 MR. MORRIS: Yeah. Okay. Can we go,
16 please, to the document that is marked
17 Scott Bates stamp 18. It's at the bottom
18 of page 5 of the exhibit, La Asia.

19 If we can start at the bottom.

20 BY MR. MORRIS:

21 Q. Do you know what this e-mail is, sir?

22 A. Yes. This is my resignation e-mail, for
23 lack of a better word.

24 Q. And why did you send your resignation
25 e-mail at that moment in time?

1 Grant Scott

2 A. Why did I send it at the end of January?

3 Q. What caused you to send this e-mail at that
4 moment in time?

5 A. Well, I mean, there are a couple of
6 reasons. It was -- it was necessary that I do it, and
7 the time seemed right in view of the events in
8 January. It was like a good transition point from my
9 perspective.

10 Q. And why was it necessary at that time?

11 A. Well, there was --

12 MR. BRIDGES: Objection. Assumes
13 facts not in evidence.

14 BY MR. MORRIS:

15 Q. You can answer.

16 A. I previously testified during this
17 deposition that throughout 2020, the desire -- or,
18 rather, the appropriateness of my wanting to resign
19 was expanding, and based on what had happened in
20 January and December as well, but mostly January, I
21 basically just did a critical mass on whether I could
22 sustain my role, given my commitments to my existing
23 firm and given my discussions with the managing
24 members of my existing firm.

25 And it -- there was just no way I could

1 Grant Scott

2 continue with the time commitment required. I had
3 made various promises and representations to my firm
4 throughout 2020 that the bankruptcy would be handled
5 relatively efficiently and wouldn't require a great
6 deal of time commitment. And then I guess the straw
7 that broke the camel's back was the second lawsuit,
8 meaning me personally, and it just -- from a personal
9 standpoint, the most significant factor was just my --
10 my being overwhelmed, trying to sustain my career and
11 engage in what seem like the 2021 that was going to
12 involve my having to defend two lawsuits. And I felt
13 like I got CLO HoldCo through the bankruptcy and then
14 that was a good jumping off point.

15 Q. What -- why did you send this e-mail to
16 Mr. Dondero?

17 A. I knew, or at least I reasonably believed
18 he would know where to who to send it to because I
19 wasn't exactly sure.

20 Q. So you were the managing member of the
21 general partnership and the director of the other DAF
22 entities and CLO HoldCo Limited, and you were not sure
23 who to send your notice of resignation to.

24 Do I have that right?

25 MR. KANE: Objection. Form. That's

1 Grant Scott

2 John Kane.

3 THE WITNESS: Yes. I didn't know who
4 best to inform my decision.

5 BY MR. MORRIS:

6 Q. And why did you think that Mr. Dondero
7 would know?

8 MR. BRIDGES: Objection. Asked and
9 answered.

10 THE WITNESS: He knows a lot more
11 about the workings of -- I mean, it was --
12 CLO HoldCo and the charitable admission was
13 something that he worked to develop with
14 others 10 years ago, and he was committed
15 to the charity and he knew all of the
16 players and I just -- I guess I just
17 assumed he would know where to direct it.

18 BY MR. MORRIS:

19 Q. Did you ever ask?

20 A. He knew how to effectuate -- he knew how to
21 effectuate -- or I thought he knew how to effectuate
22 my resignation by directing it to the appropriate
23 personnel.

24 Q. Did you ever ask him who it should be
25 directed to?

1 Grant Scott

2 A. No.

3 Q. Looking at the third paragraph, it says,
4 quote, my resignation will not be effective until I
5 approve of the indemnification provisions and obtain
6 any and all releases.

7 Do you see that?

8 A. Yes.

9 Q. Why did you condition the effectiveness of
10 your resignation on those things?

11 A. Well, although I'm a patent attorney and
12 basically just a technical writer that doesn't deal
13 with legal issues all of the time, it seemed like
14 appropriate language.

15 I have a number of outstanding litigations
16 where I am named personally, and the actions that I
17 took which resulted in my being sued were actions I
18 took on behalf of CLO HoldCo solely in that position,
19 and so I thought just to have the appropriate notice
20 that I would like indemnification to help -- to help
21 deal with those litigation matters. That is all.

22 Q. Did anybody suggest to you at any time
23 prior to the time that you sent this e-mail, that any
24 of the DAF entities or CLO HoldCo Limited might have
25 claims against you?

1 Grant Scott

2 A. No. No.

3 Q. Were you concerned that Mr. Dondero or
4 anyone acting on his behalf might sue you?

5 A. No.

6 Q. Did Mr. Dondero ever threaten to sue you?

7 A. No.

8 Q. Did you ever obtain the Indemnity provision
9 and any and all necessary releases that you asked for
10 in this e-mail?

11 A. Not yet.

12 Q. And what does that mean?

13 A. I understand that those provisions are --
14 indemnification proposals are in the works, I think.

15 Q. And do you know who is negotiating --
16 withdrawn.

17 Is somebody negotiating those
18 indemnification and release provisions on your behalf?

19 A. My -- my attorney would be.

20 Q. And do you know if your attorney is
21 negotiating with anybody concerning potential
22 indemnification and release provisions for you?

23 A. I don't know specifically, no.

24 Q. Do you know if he is -- if -- from whom do
25 you want to obtain releases?

1 Grant Scott

2 MR. BRIDGES: Objection. Facts not

3 in evidence.

4 BY MR. MORRIS:

5 Q. Withdrawn.

6 When you refer to any and all necessary

7 releases, who did you want to obtain releases from?

8 A. CLO HoldCo.

9 Q. Anybody else?

10 A. Well, I mean, and -- and the related

11 entities in that structure chart that you showed.

12 I'm -- I'm -- understand that to me, that is just

13 boilerplate legal language to put in a resignation,

14 you know, just to cross the T's, dot the I's, so to

15 speak. I'm not anticipating that will be -- that will

16 be a problem. I am sorry.

17 Q. You asked for this more than three months

18 ago now, right?

19 A. Correct.

20 Q. Do you know why you haven't gotten what you

21 asked for more than three months ago?

22 MR. BRIDGES: Objection. Form.

23 THE WITNESS: I -- I don't.

24 BY MR. MORRIS:

25 Q. But you still want the releases, right?

1 Grant Scott

2 A. I would like to, yes.

3 Q. Did you ever have any discussion with
4 Mr. Dondero about the releases that you wanted?

5 A. No.

6 Q. Have you communicated with Mr. Dondero
7 since -- since you sent this e-mail?

8 A. Yes.

9 Q. Other than the birth date text that he sent
10 to you, have you spoken with him?

11 A. In February.

12 Q. So you haven't spoken to him since then?

13 A. That is correct.

14 Q. What did you speak to him about in
15 February?

16 A. He called me to ask me if I knew anything
17 about in particular -- I think it might have been an
18 asset of CLO HoldCo, if I was aware of whether it had
19 been purchased or sold, and I just told them I didn't
20 know what he was -- I didn't know what -- I didn't
21 know what he was referring to. That was the last
22 conversation that we had.

23 Q. Can I refer to the period from the date of
24 this --

25 MR. MORRIS: Actually, let's look

1 Grant Scott

2 at -- let's scroll up a little bit, please.

3 BY MR. MORRIS:

4 Q. Did Mr. Dondero ever try to talk you out of
5 resigning?

6 A. No.

7 MR. MORRIS: Can you scroll up?

8 THE WITNESS: I -- I am sorry. I
9 need to correct that. I had conversations
10 with him where I had expressed, not so much
11 a desire to resign, but a belief that it --
12 it made strategic sense or was appropriate.
13 And it had to do with this issue of my
14 independence, and he suggested that family
15 members and friends are not precluded from
16 occupying positions of trust like trustees
17 and things like that, and that there was
18 nothing per se wrong with my -- my activity
19 with CLO HoldCo by virtue of being a friend
20 of his. So in that sense, he was trying to
21 talk me out of that, I guess.

22 BY MR. MORRIS:

23 Q. When did that conversation take place?

24 A. We had a number of those in 2020 and
25 January of 2021.

1 Grant Scott

2 MR. MORRIS: Can we scroll up just a
3 little bit on this e-mail, please?

4 MR. BRIDGES: May I ask what exhibit
5 number this is? I've lost track. I am
6 sorry.

7 MS. CANTY: This is Exhibit 5 from
8 earlier. We are continuing the numbers.
9 So this was marked as Exhibit 5 in this
10 morning's deposition.

11 MR. BRIDGES: Thank you so much.

12 BY MR. MORRIS:

13 Q. Do you see where Mr. Dondero wrote to
14 you -- it's just of above the yellow highlighting
15 at -- 9:57 a.m. This is the next day. Quote, you
16 need to tell me ASAP that you have no intent to divest
17 assets.

18 Do you see that?

19 A. Yes.

20 Q. Did Mr. -- do you have any understanding as
21 to why he said that to you?

22 A. I know that he was mistaken in that
23 statement.

24 Q. Right. Do you have any understanding as to
25 whether Mr. Dondero had the ability to stop you from

1 Grant Scott

2 selling assets?

3 A. No. It wasn't -- it was a misunderstanding
4 about what the word "divest" meant in the subject
5 line.

6 Q. And did you understand that until you
7 corrected him, he was concerned and he expressed the
8 concern to you not to sell any assets?

9 MR. KANE: Objection to form.

10 THE WITNESS: No. It had -- I am
11 sorry. There -- the term "divest" was
12 maybe not a term I should have used.

13 However, my understanding was that my -- my
14 status at CLO HoldCo had a property related
15 aspect to it. And I used that term to
16 emphasize that I would need to -- that that
17 property aspect would need to be
18 transferred, meaning to the next entity or
19 person. He mistook it as something being
20 sold. It had nothing to do with that.

21 That is all.

22 BY MR. MORRIS:

23 Q. I understand that. But did you
24 understand -- did you have any understanding as to
25 what interest he had and whether or not assets were

1 Grant Scott

2 being sold?

3 MR. BRIDGES: Object to form.

4 MR. KANE: Objection. Asked and
5 answered.

6 BY MR. MORRIS:

7 Q. You can answer.

8 A. No. I had -- I had no idea what he was --

9 Q. Okay. Let's -- let's -- can we -- can we
10 call the period of time between the time you sent this
11 notice of your intent to resign in March 24, 2021 as
12 the interim period?

13 A. Sure.

14 Q. And that's the period during which you had
15 expressed your intent to resign, but your resignation
16 had not yet become effective; is that fair?

17 A. I guess it was the period of time when --
18 yes. I guess that is correct.

19 Q. Okay. Is it fair to say that there were
20 certain things you needed to do during the interim
21 period on behalf of CLO HoldCo and the DAF entities
22 before -- even before your resignation became
23 effective?

24 A. Yes.

25 Q. Okay. Was someone designated to act as

1 Grant Scott

2 your liaison with respect to matters concerning the --
3 the DAF entities and the CLO HoldCo during the interim
4 period?

5 MR. KANE: Objection. Form.

6 THE WITNESS: I had conversations
7 with Mark Patrick in February when I came
8 to -- to believe he -- he would be director
9 elect, so to speak, in terms -- in terms of
10 moving forward.

11 BY MR. MORRIS:

12 Q. During the interim period, did you have any
13 understanding as to whether Mr. Patrick had any
14 authority to act on behalf of any of the DAF entities
15 or CLO HoldCo?

16 MR. KANE: Objection. Form.

17 THE WITNESS: I came to believe he
18 did, upon signing the management shared
19 transfer agreement.

20 BY MR. MORRIS:

21 Q. Okay. So that was -- that was on or about
22 March 24th, 2021, right?

23 A. Correct.

24 Q. So I'm asking just about the interim period
25 between January 31st, 2021 when you sent your notice

1 Grant Scott

2 of intent to resign, and March 24th. That is what I
3 am defining as the interim period.

4 So with that understanding, did you have
5 any reason to believe that Mr. Patrick had any
6 authority to act on behalf of any of the DAF entities
7 or CLO HoldCo during the interim period?

8 A. Well, it was -- he was part of a group of
9 entity -- a group of individuals that were with an
10 entity that had taken over from -- from Highland, and
11 so in -- certainly in that capacity, he -- as -- as
12 occurred for 10 years or more prior, that -- in that
13 role, you certainly had rights to -- to perform or to
14 act on CLO's behalf here.

15 Q. And what entity are you referring to?

16 A. I think it's the Highgate Consulting Group,
17 the Highland employees that took over -- or that
18 created that entity.

19 Q. And did the -- do you have an understanding
20 as to whether the Highgate Employment Group succeeded
21 to Highland Capital Management LP in the shared
22 services capacity or in the investment advisory
23 capacity or something else?

24 MR. BRIDGES: Object to form.

25 (Reporter clarification.)

1 Grant Scott

2 THE WITNESS: I'm not entirely sure
3 of that.

4 BY MR. MORRIS:

5 Q. So is --

6 A. But he -- but --

7 Q. I am sorry. Did you finish your answer?

8 A. I'm not -- I'm not sure of the delineation
9 between the two.

10 Q. So on what basis did you believe that
11 Mr. Patrick had the authority to act on behalf of the
12 DAF entities and CLO HoldCo during the interim period?

13 MR. BRIDGES: Objection. Asked and
14 answered.

15 THE WITNESS: We had -- we had had a
16 number of conversations. And over the
17 course of a number of weeks, I came to -- I
18 came to understand that he would be the
19 director going forward. So...

20 BY MR. MORRIS:

21 Q. How did you come to that understanding?

22 A. Through the conversations that we had had,
23 I guess.

24 Q. What conversations did you have with Mr. --
25 were these conversations with Mr. Patrick?

1 Grant Scott

2 A. They were conversations about the workings
3 with outside counsel to arrange the -- to arrange the
4 transfer of my responsibilities to another person or
5 entity at first, and then I came to learn that that
6 person was -- was -- would be Mark.

7 Q. Do you know who selected mark?

8 A. I do not.

9 Q. Do you know how Mark was selected?

10 A. I -- I do not.

11 Q. Did you ever ask Mark how he was selected?

12 A. I did not.

13 Q. Did you ever ask Mark who selected him?

14 A. I did not.

15 Q. Did you ever ask anybody at any time how
16 Mr. Patrick was selected to succeed you?

17 A. No, I did not.

18 Q. Did you ask anybody at any time as to who
19 made the decision to select Mr. Patrick to succeed
20 you?

21 A. No, I did not.

22 MR. BRIDGES: Objection. Facts not
23 in evidence and foundation.

24 BY MR. MORRIS:

25 Q. Okay. Do you have any understanding today,

1 Grant Scott

2 as to who has the authority to select your --
3 withdrawn.

4 Do you have any understanding today, as to
5 who had the authority to select your replacement?

6 A. I do not.

7 MR. MORRIS: All right. Let's take a
8 short break. And I am certainly -- I'm
9 closer to the end than the beginning. It's
10 3:22 Eastern Time. Let's come back at
11 3:35, please, and hopefully I will be
12 finished by about 4, 4:15.

13 (Recess taken.)

14 BY MR. MORRIS:

15 Q. I want to go back, Mr. Scott, to the time
16 that you became appointed the managing member of the
17 general partnership and to the director of the other
18 DAF entities and CLO HoldCo. Do you remember how that
19 came to be?

20 A. My recollection is that various law firms
21 and Mark Patrick had a role in its creation and
22 configuration following some -- it's -- I believe it's
23 modeled after some expert -- expert in the field. I
24 am sorry. I don't know if I answered your question.

25 Q. You did not. So let me try it again. Do

1 Grant Scott

2 you recall how it came to be that you assumed those
3 positions?

4 A. Ten years ago I accepted that role.

5 Q. And who offered the role to you?

6 A. Jim Dondero.

7 Q. Did -- did you communicate with anybody
8 other than Mr. Dondero concerning the opportunity that
9 he presented to you to assume these roles prior to the
10 time you accepted the position?

11 MR. KANE: Objection. Form.

12 BY MR. MORRIS:

13 Q. Withdrawn.

14 A. Possibly or --

15 Q. Withdrawn. Let me ask -- let me ask --
16 it's a good objection.

17 Mr. Scott, prior to the time that you
18 assumed your positions with the DAF entities and
19 CLO HoldCo, did you speak with anybody other than
20 Mr. Dondero, about the duties and responsibilities of
21 those positions?

22 MR. KANE: Objection to form.

23 THE WITNESS: The only thing that
24 comes to mind is Hunton & Williams. But
25 I -- I'm not sure. I don't know.

1 Grant Scott

2 BY MR. MORRIS:

3 Q. Do you have any memory of interviewing with
4 anybody?

5 A. I don't have any recollection of that, no.

6 Q. Did you submit a resume of any kind?

7 A. Possibly a CV. But I -- I just don't
8 remember anymore.

9 Q. Do you know who made the decision to select
10 you to serve in those capacities?

11 MR. KANE: Objection. Form.

12 THE WITNESS: I don't know.

13 BY MR. MORRIS:

14 Q. Did anybody -- withdrawn.

15 Did you meet with Patrick before or after
16 you assumed these roles?

17 A. It's going back 10 years. I -- I'm not
18 sure.

19 MR. MORRIS: Can we put up on the
20 screen a document that we marked this
21 morning. I believe it's Exhibit 2.

22 BY MR. MORRIS:

23 Q. And this is a document titled An Amended
24 and Restated Limited Liability Company Agreement of
25 Charitable DAF GP LLC.

1 Grant Scott

2 Do you see that?

3 A. Yes.

4 Q. And do you see that it's effective January
5 1, 2012?

6 And if we could go to the last page. And
7 is that your signature, sir?

8 A. That is correct.

9 Q. And is this the document that you signed on
10 March 12th, 2012, pursuant to which you became the
11 general partner of the DAF GP?

12 MR. KANE: Objection. Form.

13 THE WITNESS: It's not March 12th.

14 It's dated as March 21st, just to clarify,
15 but I believe so.

16 BY MR. MORRIS:

17 Q. I appreciate that. I'm going to ask the
18 question again, just because I was wrong and I want to
19 get it right.

20 Is this the document you signed on or about
21 March 21, 2012, pursuant to which you became the
22 managing member of the DAF GP, LLC?

23 A. I believe so.

24 Q. Okay. And you replaced Mr. Dondero in that
25 capacity; is that right?

1 Grant Scott

2 A. Yes.

3 Q. And your recollection is that Mr. Dondero
4 presented the opportunity to you; is that right?

5 MR. KANE: Objection. Form.

6 THE WITNESS: Yes. I guess you could
7 call it an opportunity.

8 BY MR. MORRIS:

9 Q. And do you have any recollection as to
10 whether or not anybody else was involved in the
11 decision to offer the opportunity to you?

12 A. I -- I don't recall.

13 Q. Okay. We can take that down, please.

14 Do you recall whether Mr. Patrick was
15 involved in your selection as the replacement
16 management member of the DAF GP, LLC in 2012?

17 A. I have no recollection.

18 MR. KANE: Objection to form.

19 Yes. Okay.

20 BY MR. MORRIS:

21 Q. I want to go back to what we had defined
22 earlier as the interim period, and that was the period
23 between January 31st, 2021, when you sent in that
24 notice and March 24, 2021, when you transferred the
25 shares. That is what we were calling the interim

1 Grant Scott

2 period, right?

3 A. Yes.

4 Q. Okay. Is it fair to say that Mr. Patrick
5 served as your primary contact with respect to matters
6 concerning CLO HoldCo and the DAF during the interim
7 period?

8 A. Yes.

9 Q. Okay. And, in fact, Mr. Patrick gave you
10 instructions on what to do for the DAF and the
11 CLO HoldCo on certain matters during the interim
12 period, correct?

13 MR. KANE: Objection to form.

14 THE WITNESS: Periodically, yes.

15 BY MR. MORRIS:

16 Q. I am sorry. What is the answer?

17 A. Periodically, yes.

18 Q. Okay. Did somebody ever tell you that you
19 should follow Mr. Patrick's instructions?

20 A. No, I don't believe so.

21 Q. And, Mr. Patrick, to the best of your
22 knowledge, didn't HoldCo any positions with any of the
23 DAF entities or CLO HoldCo Limited, correct?

24 MR. KANE: Objection to form.

25 MR. BRIDGES: Object to foundation.

1 Grant Scott

2 BY MR. MORRIS:

3 Q. You can answer.

4 A. During the interim period?

5 Q. Correct.

6 A. I do not believe so.

7 Q. If Mr. Patrick didn't hold any positions,
8 why did you follow his instructions?

9 MR. BRIDGES: Objection.

10 MR. KANE: Objection. Go ahead,
11 sorry.

12 MR. BRIDGES: Facts not in evidence.

13 MR. KANE: And objection to form.

14 BY MR. MORRIS:

15 Q. You can answer, sir.

16 A. Yes. Well, there -- I mean, there was a
17 lot of activity that was required to transfer over
18 from how things had been handled under Highland, to
19 how they would now be handled under -- with the
20 services being provided by Highgate, and he was a
21 member, and he was the point person, I guess, and he
22 was my main interface to get those large numbers of
23 issues resolved.

24 There was -- you know, it was a very busy,
25 challenging time.

1 Grant Scott

2 Q. Did you sign any agreement on behalf of any
3 of the DAF entities or CLO HoldCo with the entity that
4 you are referring to as Highgate?

5 A. I'm not sure.

6 Q. Do you have any recollection at all of ever
7 signing any agreements in your capacity as the
8 authorized representative of any of the DAF entities
9 or CLO HoldCo and Highgate?

10 MR. KANE: Objection. Form.

11 THE WITNESS: I -- I don't recall.

12 BY MR. MORRIS:

13 Q. And I may have asked you this already. If
14 I have, I'm sure there will be an objection. But do
15 you recall if Highgate was providing services
16 equivalent to the shared services that Highland
17 previously provided, or was it providing investment
18 advisory services of the type Highland previously
19 provided?

20 MR. KANE: Objection to form.

21 MR. BRIDGES: Objection.

22 BY MR. MORRIS:

23 Q. You can answer.

24 A. I don't know the delineation of the
25 services they were providing.

1 Grant Scott

2 Q. Do you know whether during the interim
3 period, any entity other than Highgate was providing
4 services on behalf of any of the DAF entities or
5 CLO HoldCo?

6 A. Well, I knew from various wires that were
7 approved, that various entities were providing
8 services. Law firms, for example.

9 Q. But was there any -- any entity other than
10 Highgate that was providing any of the services that
11 had previously been provided by Highland?

12 A. Well, Highland provided a lot of legal
13 services. I don't know that Highgate had the same
14 capability. So I don't know how to answer that.

15 Q. All right. I'm going to try a different
16 way.

17 Before -- before 2021, the DAF entities had
18 both a shared services arrangement and an investment
19 advisory arrangement with Highland.

20 Do I have that right?

21 A. Yes.

22 Q. During the interim period, Highland was no
23 longer providing any of those services, correct?

24 A. That's what I understand, yes.

25 Q. Did anybody replace Highland in the

1 Grant Scott

2 provision of those services during the interim period?

3 MR. BRIDGES: Objection, asked and

4 answered.

5 BY MR. MORRIS:

6 Q. You can answer, sir.

7 A. I mean, besides the services Highgate

8 were -- was -- were providing, I'm not sure.

9 Q. And -- and I do know that I've asked this
10 before, but now with that context: Do you know
11 whether Highgate was providing services of the shared
12 services type, or the investment advisory type, or you
13 just don't know?

14 MR. BRIDGES: Objection to the form.

15 THE WITNESS: At least I would think
16 mostly the shared services type.

17 BY MR. MORRIS:

18 Q. Okay. Is it your understanding that under
19 the shared services agreement, that Highgate had the
20 ability to make decisions on behalf of any of the DAF
21 entities or CLO HoldCo?

22 MR. BRIDGES: Objection.

23 MR. KANE: Objection to form.

24 MR. BRIDGES: Misstates testimony.

25 THE WITNESS: Yeah, my prior

1 Grant Scott

2 testimony was I didn't see the agreements,
3 so I don't know.

4 BY MR. MORRIS:

5 Q. You haven't seen any agreement with
6 Highgate; is that right?

7 A. I don't recall that I have.

8 Q. Do you have any understanding as to whether
9 Highgate had the authority to bind any of the DAF
10 entities or CLO HoldCo during the interim period?

11 MR. BRIDGES: Objection. Calls for a
12 legal conclusion.

13 THE WITNESS: I don't know.

14 BY MR. MORRIS:

15 Q. Do you have any understanding as to whether
16 Mark Patrick had the ability as an individual to bind
17 any of the DAF entities or CLO HoldCo during the
18 interim period?

19 MR. BRIDGES: Objection. Calls for a
20 legal conclusion.

21 MR. KANE: Objection. Calls for a
22 legal conclusion.

23 THE WITNESS: I don't know.

24 BY MR. MORRIS:

25 Q. Okay. And I'm just asking as a matter of

1 Grant Scott

2 fact, to be clear. I'm not asking for any legal
3 conclusions. I'm asking for your understanding as the
4 authorized representative of the DAF entities and
5 CLO HoldCo during the interim period.

6 So with that -- with that background as the
7 authorized entity, that -- withdrawn.

8 As the authorized representative during the
9 interim period, did you have any understanding as to
10 whether Mr. Patrick had the authority to bind any of
11 the DAF entities or CLO HoldCo during that time?

12 MR. KANE: Objection.

13 MR. BRIDGES: Objection. Calls for
14 legal conclusion. Also, objection as to
15 vagueness of the question.

16 BY MR. MORRIS:

17 Q. I'm sorry, Mr. Scott, did you answer?

18 A. I did not. No, I have not. I --

19 Q. I apologize.

20 A. I don't know what the status of his legal
21 authorization was.

22 Q. Do you recall that in early March, you
23 bought a couple of events to Mr. Patrick's attention?

24 A. I know that I forwarded documents to his
25 attention, yes.

1 Grant Scott

2 Q. And why did you forward documents to
3 Mr. Patrick's attention during the interim period?

4 A. Because I was resigning, and I understood
5 that he was essentially going to be, or was the
6 director elect, and I just thought it appropriate to
7 bring such things to his attention.

8 Q. And when did you -- when did you learn that
9 he was doing to be the director elect?

10 A. I -- I believe it was February. Sometime
11 in February.

12 Q. Do you recall how you learned that he was
13 going to become the director elect?

14 A. I can't point to a specific conversation.
15 I can't -- I can't point to the specific conversation.
16 At some point, it went from being some future third
17 party, and I came to believe it would be him. I'm
18 not -- I'm not sure of the timing.

19 Q. Okay. Do you know from whom you learned
20 that he was going to be the director elect?

21 A. I believe it was him.

22 Q. Okay. So he told you that he was going to
23 replace you; is that right?

24 A. I don't know that he said it specifically.
25 I don't remember our conversations.

1 Grant Scott

2 Q. Did you ever do anything to confirm with
3 anybody that Mark Patrick was going to be the director
4 elect, or did you just take his word for it?

5 A. I did not independently confirm it, no.

6 Q. Did you ever ask Mr. Dondero if -- if he
7 approved of the selection of Mr. Patrick as your
8 successor?

9 A. I did not.

10 Q. Did you ever discuss with Mr. Dondero, the
11 topic of who would be your successor?

12 A. Going back. Prior to the interim period, I
13 had recommended him, Mark.

14 Q. Did you -- did you discuss Mr. Patrick's
15 selection as your successor with anybody in the world
16 at any time other than Mr. Patrick?

17 A. I talked with my attorney about it. But I
18 don't think so. No.

19 Q. Did you talk with anybody that you believed
20 was authorized to make the decision on behalf of the
21 DAF entities and CLO HoldCo about your successor?

22 A. No, I did not.

23 MR. MORRIS: Can we put up the
24 document that was marked, La Asia, on Page
25 7, as Bates number 80.

1 Grant Scott

2 (Deposition Exhibit 10 was marked for
3 identification.)

4 BY MR. MORRIS:

5 Q. Do you see that -- if you scroll just down
6 a little bit. I guess not.

7 Mr. Patrick wrote an e-mail to you and
8 said, "The successor will respond to this complaint,"
9 and at the top you wrote "understood" --

10 A. Yes.

11 Q. -- or the top of the e-mail.

12 Do you recall that in early March, you
13 received a new complaint in which CLO HoldCo was named
14 the defendant?

15 A. I believe this -- this was the unsecured
16 creditors' committee complaint; is that correct?

17 Q. I think so, but it's your testimony. I'm
18 just asking you if you recall that in early March,
19 CLO HoldCo was sued?

20 A. Yes. I think this was the second lawsuit
21 that I was referring to personally.

22 Q. Okay. And so this -- this actually
23 occurred after the time you had already given notice,
24 right?

25 A. Yes.

1 Grant Scott

2 Q. Yeah. And was the first lawsuit, the one
3 that you settled, before you gave notice?

4 A. No. The -- no, both lawsuits are pending.

5 Q. Okay. Do you know when the -- who's the
6 plaintiff in the first one?

7 A. Acis.

8 (Reporter clarification.)

9 THE WITNESS: Acis, A-C-I-S.

10 BY MR. MORRIS:

11 Q. So the debtor never sued you personally; is
12 that right?

13 A. Not yet.

14 Q. And is it right that Mr. Patrick told you
15 that -- that the successor will respond to the
16 complaint?

17 A. Yes.

18 Q. Now, he's not referring to himself yet, is
19 he?

20 A. That appears correct, yes.

21 Q. Does that refresh your recollection that
22 you had not known yet as of March 2nd who the
23 successor would be?

24 A. I guess it does.

25 MR. MORRIS: Can we put up the next

1 Grant Scott

2 exhibit, please, the one ending in -- the
3 one Bates number 85. And please remind us,
4 La Asia, what exhibit number are we up to?

5 MS. CANTY: We're up to 10, but the
6 one I'm about to put up is Exhibit 6 from
7 earlier today.

8 MR. MORRIS: Thank you very much.

9 BY MR. MORRIS:

10 Q. Now, if we can just scroll down a little
11 bit. Do you remember something called an Adherence
12 Agreement being discussed in March of 2021?

13 A. A what agreement?

14 Q. Adherence Agreement.

15 A. I see that. Was it directed to me?

16 Q. Yeah. If we can just scroll up.

17 Okay. So right there, do you see that
18 Thomas Surgent sends it to Mr. Kane? The subject is
19 'Adherence Agreement.'

20 A. Yes.

21 Q. And you do see that you forwarded that
22 e-mail to Mr. Patrick on the same day, March 2nd?

23 A. Yes.

24 Q. And it says "This relates to the second
25 issue from the debtor."

1 Grant Scott

2 Do you see that?

3 A. Yes.

4 Q. And the first issue was the complaint that
5 we just looked at; is that right?

6 A. I believe that's correct.

7 Q. And the Adherence Agreement is the second
8 issue that you wanted to bring to Mr. Patrick's
9 attention on March 2nd, correct?

10 A. Yes.

11 Q. And did you understand that the debtor had
12 requested that CLO HoldCo sign the Adherence Agreement
13 in connection with the consummation -- or in
14 connection with the HarbourVest settlement?

15 A. I don't know that I formed an opinion of
16 what was being requested. I just forwarded it to the
17 person the best to be able to handle going forward.

18 Q. Okay. And can we just scroll up a little
19 bit on this e-mail.

20 Do you see that Mr. Patrick gave you
21 instructions, quote, "Do not sign the Adherence
22 Agreement from the debtor," close quote.

23 A. Yes.

24 Q. Okay. And you followed Mr. Patrick's
25 instructions, right?

1 Grant Scott

2 A. Yes. I resigned. I wasn't going to do
3 anything to -- yes. Yes.

4 Q. You actually hadn't resigned yet. Well,
5 withdrawn.

6 Your resignation had not become effective
7 yet, correct?

8 A. Yes. I guess I gave a March 1st date, but
9 it dragged on, so technically, I was still in that
10 role, but quite frankly, any issue that could be
11 pushed to the future for the -- I was going to push it
12 to the future.

13 Q. Did -- did Mr. Patrick ever tell you that
14 he had spoken with Mr. Dondero about any of the issues
15 that you were communicating with him about?

16 A. No.

17 Q. Do you recall also on March 2nd --
18 March 2nd seems like it was a busy day. Do you recall
19 also, on March 2nd, that you were informed of an
20 opportunity, whereby, CLO HoldCo Limited could
21 purchase certain equity in a company called TerreStar?

22 MR. KANE: Objection. Form.

23 THE WITNESS: I'm familiar with the
24 name TerreStar.

25 BY MR. MORRIS:

1 Grant Scott

2 Q. And do you remember communicating with
3 Mr. Patrick about an opportunity that had been
4 presented to CLO HoldCo in early March about the
5 opportunity to purchase certain equity in TerreStar?

6 A. Vaguely.

7 Q. Okay.

8 MR. MORRIS: Can we put up the next
9 exhibit, please?

10 (Deposition Exhibit 11 was marked for
11 identification.)

12 BY MR. MORRIS:

13 Q. And if we can just scroll down, there's Joe
14 Sowin. Do you know who Joe Sowin is?

15 A. I've worked with him over the years.

16 Q. And do you see that Joe Sowin is the next
17 point?

18 A. I see that.

19 MR. KANE: Objection. Form.

20 BY MR. MORRIS:

21 Q. And does this refresh your recollection
22 that on or about March 2nd, 2021, Mr. Sowin wrote to
23 you about an opportunity to purchase from HOCF
24 approximately 5,000 shares issued by TerreStar?

25 A. I see that.

1 Grant Scott

2 Q. Okay. Did you communicate with Mr. Sowin
3 from time to time?

4 A. Yes.

5 Q. Did you ever tell Mr. Sowin that he should
6 direct all communications to Mr. Patrick?

7 A. I don't know if I did or not. Who -- who
8 did I get this -- did this come through Highgate?

9 Q. I can only look at what you see.

10 Can we scroll up to the next e-mail.

11 And you forwarded it to Mr. Patrick; is
12 that right?

13 A. Yes. It appears so.

14 Q. And -- and you asked him for his thoughts,
15 right?

16 A. Yeah. I didn't -- yeah.

17 Q. Okay. And if we can scroll up and just
18 take a look at Mr. Patrick's response. It says --

19 A. Okay. I see that.

20 Q. Yeah. It's at the top. "Please --"

21 A. I see that.

22 Q. Okay. And did you act -- withdrawn.

23 Did you follow Mr. Patrick's instructions,
24 as set forth in this e-mail?

25 A. I think I responded favorably to Joe's

1 Grant Scott

2 recommendation.

3 Q. Well, Mr. Patrick told you to act on the
4 request below. Do you see that?

5 MR. BRIDGES: Objection. Form.

6 Objection. Misstates the exhibit.

7 BY MR. MORRIS:

8 Q. Okay. I will quote the exhibit. Do you
9 see that Mr. Patrick said, quote, "Please act on the
10 request below"?

11 A. I do see that, yes.

12 Q. And did you act on the request below?

13 MR. KANE: Objection to form. Asked
14 and answered.

15 THE WITNESS: I did.

16 BY MR. MORRIS:

17 Q. Thank you.

18 Do you recall any issues coming up
19 concerning directors' and officers' insurance for the
20 DAF entities or CLO HoldCo Limited? And I'm
21 specifically referring to the interim period.

22 A. Relating to --

23 MR. BRIDGES: Objection. Vague.

24 BY MR. MORRIS:

25 Q. Directors' and officers' insurance. Let me

1 Grant Scott

2 ask the question again, Mr. Scott.

3 During the interim period, do you remember
4 any issues arising with respect to directors' and
5 officers' insurance for any of the DAF entities or
6 CLO HoldCo?

7 A. I don't -- I don't recall.

8 Q. Do you know who Chris Rice is?

9 A. Yes.

10 Q. Who is Chris Rice?

11 A. He is an employee at Highgate.

12 Q. Are you familiar with an entity called
13 Elysium?

14 A. The name sounds familiar.

15 Q. All right.

16 MR. MORRIS: La Asia, can we mark the
17 next exhibit? It's in the middle of page
18 9, Bates number 361.

19 MS. CANTY: This is going to be 12.

20 MR. MORRIS: Thank you. And if we
21 can scroll towards the bottom.

22 (Deposition Exhibit 12 was marked for
23 identification.)

24 BY MR. MORRIS:

25 Q. Do you remember that there was this firm

1 Grant Scott

2 called Elysium?

3 A. Yes. Now I remember.

4 Q. And they were asking you for information?

5 A. That is correct.

6 Q. Did you ever provide the information to
7 Elysium that had been requested back in February?

8 A. No, I did not.

9 Q. Is there a reason why you didn't respond to
10 Elysium's request for information?

11 A. Because of the transition, I thought much
12 of the information that they were requesting was going
13 to be changing, so I -- I -- I didn't know that it was
14 particularly urgent. But I -- I figured it would be a
15 waste of time to give him information which would be
16 changed in any -- at any moment.

17 Q. Okay. Can we just scroll up a little bit
18 and see what happened with this request.

19 So you actually responded the same day and
20 told Mr. -- Mr. Robins that you were working on it.
21 Do I have that right?

22 A. Yes. That's correct.

23 Q. Is that a true statement at the time you
24 wrote it?

25 A. Yes. I'm working on this, meaning not me

1 Grant Scott

2 personally. I mean, I'm work- -- I wanted to let him
3 know that I'd received the e-mail, and then I
4 forwarded it to Highgate, thinking that at any moment,
5 they would be able to provide the information, so I
6 just wanted, as a courtesy, to let them know that I'd
7 received it and was aware of this request. That's --
8 that's all.

9 Q. Okay. You didn't let him know that there
10 was a transition in the works, right?

11 A. No. No, I -- I may have.

12 Q. Yeah, you may have. Let's see what happens
13 next.

14 So in early March, he asked -- he follows
15 up; is that fair?

16 A. Yes.

17 Q. Okay. Let's go to the next e-mail.

18 And you forwarded to Mark Patrick, a month
19 later; is that right?

20 A. Yes. I'm -- there may have been an interim
21 e-mail where I --

22 Q. Okay. But the long and the short of it is
23 you never -- you -- you didn't respond to these
24 inquiries from Elysium; is that right?

25 MR. KANE: Objection.

1 Grant Scott

2 MR. BRIDGES: Objection.

3 MR. MORRIS: Withdrawn. Withdrawn.

4 BY MR. MORRIS:

5 Q. You didn't provide a substantive response
6 to Elysium; is that right?

7 MR. KANE: Objection. Assumes facts
8 not in evidence.

9 MR. MORRIS: That is why I'm asking
10 the question.

11 BY MR. MORRIS:

12 Q. Go ahead, Mr. Scott. You can answer.

13 A. I did not provide a substantive response to
14 their inquiry.

15 Q. Okay. Thank you.

16 Can we go to the top. In fact -- in fact,
17 you were instructed by Mr. Patrick to do nothing,
18 correct?

19 MR. BRIDGES: Objection. Misstates
20 the testimony.

21 THE WITNESS: No.

22 BY MR. MORRIS?

23 Q. Sir, the e-mail says "Do nothing," correct?

24 A. That is correct, and they were handling it,
25 not me.

1 Grant Scott

2 Q. Okay. Now, did you resign on or about
3 March 24th, 2021?

4 A. Yes. That's -- that's when the transfer --
5 share of transfer.

6 Q. Okay.

7 MR. MORRIS: Can we put the next
8 exhibit up, please. It's the one at the
9 top at page 10. It's file 3, document 5.

10 MR. BRIDGES: Mr. Morris, can I ask
11 you how it is for time because you told us
12 earlier -- you teased us with a 4:15 end
13 time, potentially.

14 MR. MORRIS: Yeah, I'm just on the
15 last couple of documents.

16 MR. BRIDGES: Thank you.

17 MR. MORRIS: You bet.

18 BY MR. MORRIS:

19 Q. Do you see this is a document called an
20 Assignment and Assumption of Membership Interest
21 Agreement?

22 A. Yes.

23 MR. MORRIS: And if we can scroll
24 down.

25 BY MR. MORRIS:

1 Grant Scott

2 Q. Did you sign this document?

3 A. Yes, sir.

4 Q. Okay. Do you know what this document is?

5 A. I believe it's the Management Share

6 Transfer Agreement.

7 Q. Okay. And do you know who prepared it?

8 A. I do not.

9 Q. Did you assign something pursuant to this
10 document?

11 A. Yes. The -- the -- the management shares.

12 MR. MORRIS: Okay. Can we go to the
13 first page, please?

14 BY MR. MORRIS:

15 Q. And do you see in paragraph 1, there is a
16 description of the assignment and assumption of the
17 signed interest?

18 A. Yes, I see that.

19 Q. Okay. Does that paragraph describe
20 everything that you assigned to Mr. Patrick?

21 A. In this agreement. Yes.

22 MR. BRIDGES: Objection. Calls --
23 objection. Calls for a legal conclusion.

24 MR. KANE: I join the objection.

25 BY MR. MORRIS:

1 Grant Scott

2 Q. You can answer, sir.

3 A. Yes. I mean, it says what it says. But
4 yes, that is what I was transferring.

5 Q. And can you identify for me anything that
6 you know that you ever assigned to Mr. Patrick that is
7 not set forth in paragraph 1?

8 MR. BRIDGES: Objection. Form.

9 THE WITNESS: I'm unaware of
10 anything.

11 BY MR. MORRIS:

12 Q. Do you know if -- if the items and assets
13 that are set forth in paragraph 1 had any value?

14 MR. KANE: Objection. Form.

15 THE WITNESS: They had value, maybe
16 not monetary.

17 BY MR. MORRIS:

18 Q. And what value did they have?

19 A. I believe they had the property interest
20 that I referred to previously.

21 Q. And what property interest are you
22 referring to?

23 MR. KANE: Objection. Form. Calls
24 for a legal conclusion.

25 BY MR. MORRIS:

1 Grant Scott

2 Q. You can answer. Sir, it's your words we
3 need.

4 A. The shares were the -- these management
5 shares were the -- I was treating as property.

6 Q. Do you have any understanding as to what
7 the value of the management shares was at the time you
8 entered into this agreement?

9 A. I did not.

10 Q. Did you have any understanding as to
11 whether those management shares held any particular
12 rights at the time you entered into this agreement?

13 MR. KANE: Objection to form.

14 THE WITNESS: My understanding was
15 they had my rights previously. Ultimately.

16 BY MR. MORRIS:

17 Q. And what rights did you believe flowed from
18 the management shares?

19 A. The controlling rights that flowed down to
20 the various entities.

21 Q. Did you receive anything in return in
22 exchange for your assignment of these property
23 interests and the other assets set forth in paragraph
24 1?

25 A. It allowed me to finally resign. That is

1 Grant Scott

2 what I received. I mean, it ended my -- it ended my
3 role as a -- maybe as an agent, or an employee or
4 whatever. Those are my substantive rights, as I
5 understood it.

6 Q. Okay. So you -- you surrendered the
7 substantive rights in an exchange -- you no longer had
8 your substantive rights?

9 MR. BRIDGES: Objection. Asked and
10 answered.

11 MR. KANE: Objection. Form.

12 BY MR. MORRIS:

13 Q. You can answer, sir. Did you get anything
14 other than -- withdrawn.

15 Did you get anything other than what you
16 already described?

17 A. Relief. Yes.

18 Q. Excellent. Did you ever consider assigning
19 these interests or assets to anybody other than
20 Mr. Patrick?

21 A. I did not.

22 Q. Did you ever consider -- did you have any
23 belief as to whether the interests that were assigned
24 were freely tradeable?

25 MR. BRIDGES: Objection. Calls for a

1 Grant Scott

2 legal conclusion.

3 MR. KANE: I join the objection.

4 THE WITNESS: I didn't make -- I did
5 not make an assessment of that.

6 BY MR. MORRIS:

7 Q. Do you know -- withdrawn.

8 Do you have any understanding as to whether
9 there were any restrictions on the transferability of
10 the interests that you assigned pursuant to this
11 agreement?

12 MR. KANE: Objection. Calls for a
13 legal conclusion.

14 THE WITNESS: I did not.

15 BY MR. MORRIS:

16 Q. Did you let anybody know that you were
17 willing to assign the interests that are described in
18 paragraph 1 other than Mr. Patrick?

19 A. Anyone that I -- conceivably, anyone that I
20 let know that was at all familiar with the structure,
21 anyone that was informed of my desire to resign would
22 have arguably have known that.

23 Q. Okay. I'm not asking you to put yourself
24 in the shoes of anybody else. I'm asking for what you
25 recall telling people.

1 Grant Scott

2 Did you ever tell anybody at any time that
3 you were ready, willing and able to transfer and
4 assign the interests that are in this document other
5 than Mr. Patrick and your lawyers?

6 A. I am sorry. I misunderstood your question.
7 The answer is no.

8 Q. Did you ever think to try to assign these
9 interests for a profit?

10 A. Good grief, no.
11 (Reporter clarification.)

12 A. No.

13 Q. Did you -- was anybody, other than
14 Mr. Patrick, ever identified as a potential assignee
15 of the interests that are described in paragraph 1?

16 MR. KANE: Objection to form.

17 THE WITNESS: I was unaware of any.

18 BY MR. MORRIS:

19 Q. Okay. Did you make any effort to identify
20 anybody other than Mr. Patrick as a potential assignee
21 for the interests that are set forth in paragraph 1?

22 A. No, I did not.

23 Q. Did any -- did anybody acting on your
24 behalf, to the best of your knowledge, ever make any
25 efforts to identify any potential assignee other than

1 Grant Scott

2 Mr. Patrick for the interests set forth in paragraph

3 1?

4 MR. BRIDGES: Objection. Foundation.

5 THE WITNESS: I don't have that

6 knowledge. No.

7 MR. MORRIS: Can we go to the next

8 exhibit, please?

9 (Deposition Exhibit 14 was marked for
10 identification.)

11 BY MR. MORRIS:

12 Q. Okay. And do you see that these are
13 written resolutions dated the next day, March 25th?

14 A. Yes.

15 Q. And these resolutions provide for the
16 shared transfer described in the document?

17 A. It appears so, yes.

18 Q. And are these the management shares that
19 you were referring to earlier?

20 A. I believe so.

21 Q. Did you believe at the time that you owned
22 all of the management shares of charitable DAF HoldCo
23 Limited?

24 A. That was my understanding.

25 Q. How did you acquire those shares?

1 Grant Scott

2 A. I'm not sure the exact timing, but I
3 believe that was all established when I became
4 involved.

5 Q. Did you pay anything of value for the
6 shares at the time that you acquired them?

7 A. I am -- I don't believe so, no.

8 Q. Did you need to obtain anybody's approval
9 before you could transfer the shares?

10 A. No. I don't believe so.

11 Q. Did you make any effort to obtain anybody's
12 approval before you transferred the shares?

13 A. I did not.

14 Q. Did you have any reason to believe that
15 Mr. Dondero approved of the transfer of the management
16 shares to Mr. Patrick?

17 A. I -- I don't know that.

18 Q. Did you testify earlier, that you had
19 discussed with Mr. Dondero in January, Mark Patrick
20 succeeding you?

21 MR. BRIDGES: Objection. Misstates
22 prior testimony.

23 BY MR. MORRIS:

24 Q. You can answer, sir.

25 A. I believe it was prior to that.

1 Grant Scott

2 Q. Were you paid anything of value for your
3 services as the, either the managing member of the DAF
4 GP, or as a director of any of the other DAF or
5 CLO HoldCo Limited entities at any time?

6 A. For a majority of the years, yes, I
7 received a monthly statement.

8 Q. And is that -- how much was the monthly
9 statement?

10 A. I believe it was \$5,000.

11 Q. Did it ever increase to an amount more than
12 \$5,000?

13 A. No.

14 Q. Did you receive anything else of value for
15 your service to the DAF entities and CLO HoldCo
16 Limited other than the \$5,000 monthly stipend that you
17 just described?

18 A. I did not.

19 Q. Do you recall that after you resigned, you
20 got reappointed, and then subsequently replaced again
21 by Mr. Patrick?

22 MR. KANE: Objection to form.

23 (Reporter clarification.)

24 THE WITNESS: Can you repeat -- did
25 you say -- it went away, and then it came

1 Grant Scott

2 back. I don't understand the question. I
3 am sorry.

4 BY MR. MORRIS:

5 Q. That is okay. I just saw this in the
6 documents, and I thought it was odd. But let me put
7 the documents up and see if you can shed any light.

8 MR. MORRIS: Let's start with the
9 next exhibit, Patrick File 3, Document 9.

10 (Deposition Exhibit 15 was marked for
11 identification.)

12 BY MR. MORRIS:

13 Q. And do you see in the resolutions, if we
14 can go up just a bit, dated March 24th, and it was
15 resolved that you were removed as a director of the
16 company and Mr. Patrick was appointed as your
17 replacement, if that is a fair characterization?

18 Do you see that?

19 A. I see that.

20 MR. MORRIS: And now if we can put up
21 the next document.

22 (Deposition Exhibit 16 was marked for
23 identification.)

24 BY MR. MORRIS:

25 Q. So this is a week later. It's March 31st.

1 Grant Scott

2 MR. MORRIS: And if we can just
3 scroll down and see if it's signed.

4 BY MR. MORRIS:

5 Q. Do you see that Mr. Patrick was removed as
6 the director and you were reappointed?

7 A. Yes, I do see that.

8 Q. Do you have any understanding as to why
9 Mr. Patrick resigned and reappointed you as the
10 director a week later?

11 A. I don't have -- I don't -- I don't know.

12 Q. Did you even know this happened?

13 A. Is my signature on that agreement?

14 Q. No.

15 A. I'm not sure.

16 Q. Do you have any -- do you have any
17 recollection as -- as to whether or not you were ever
18 reappointed as the director of the company on or about
19 March 31st, 2021?

20 A. I don't know if I have received any
21 communication about this or not.

22 Q. Okay.

23 MR. MORRIS: Can we go to the next
24 document, please?

25 (Deposition Exhibit 17 was marked for

1 Grant Scott

2 identification.)

3 MR. KANE: Mr. Morris, can you help
4 me with the exhibit numbers? Was that 16,
5 or are we still on 15, additional portions
6 of it?

7 MS. CANTY: That was 16 but not going
8 to 17.

9 MR. KANE: Thank you. I apologize.

10 MR. MORRIS: That is okay, Jonathan.
11 We will get to everything and clear up any
12 confusion.

13 BY MR. MORRIS:

14 Q. So if you go to the bottom of that
15 document, can you see that it was signed?

16 All right. Do you see Mr. Patrick signed
17 this document?

18 A. Yes, I see that.

19 Q. Do you see that it's dated -- if we can go
20 back up to the top. It's April 2nd, and do you see
21 that you are -- pursuant to these resolutions, you
22 were removed as the director again and replaced by
23 Mr. Patrick?

24 A. Yes, I see that. And they seem to be
25 correcting an error of some sort.

1 Grant Scott

2 Q. Did anybody ever describe for you or
3 explain to you what error had been made?

4 A. I am sorry. I'm not familiar with these
5 documents.

6 Q. Okay. Is it fair to say that -- well, I
7 will just leave it at that.

8 So nobody ever informed you that there was
9 a mistake that had to be corrected; is that right?

10 MR. BRIDGES: Objection. Asked and
11 answered.

12 BY MR. MORRIS:

13 Q. You can answer.

14 A. I don't know that there was this -- this
15 may have -- I don't know that there was a mistake.

16 Q. You have no knowledge of --

17 A. I have no knowledge of this. I was in a
18 very complex process. I think there...

19 Q. And nobody ever asked -- nobody ever asked
20 your consent to be reappointed as the director of the
21 company, correct?

22 MR. BRIDGES: Objection. Asked and
23 answered.

24 THE WITNESS: I didn't receive any
25 communications about this.

1 Grant Scott

2 BY MR. MORRIS:

3 Q. And so you didn't provide your consent to
4 be reappointed as the director of the company,
5 correct?

6 MR. BRIDGES: Objection. Asked and
7 answered.

8 THE WITNESS: That's correct.

9 BY MR. MORRIS:

10 Q. Okay. Did you become aware that after you
11 resigned, that DAF and CLO HoldCo started a lawsuit
12 against the debtor and some other defendants related
13 to the HarbourVest settlement?

14 A. I did become aware of it, yes.

15 Q. And were you aware of the lawsuit -- were
16 you aware that DAF and CLO HoldCo were considering
17 filing the lawsuit before it was actually commenced?

18 A. No.

19 Q. Did you have any communications with
20 anybody at any time about the possibility that the DAF
21 and CLO HoldCo would commence a lawsuit against the
22 debtor and others relating to the HarbourVest
23 settlement prior to the time that the lawsuit was
24 commenced?

25 A. I did not.

1 Grant Scott

2 Q. So is it fair to say that you did not
3 provide any information to anybody at any time to
4 support the claim -- the complaint that was filed
5 against the debtor and the other defendants in the
6 lawsuit that was brought by the DAF and CLO HoldCo?

7 MR. BRIDGES: Objection. Foundation.

8 THE WITNESS: I didn't provide
9 anything with respect to the litigation
10 that was filed.

11 BY MR. MORRIS:

12 Q. And did anybody ever ask you for
13 information relating to potential claims against the
14 debtor and others?

15 A. No.

16 Q. Did you ever have any discussions with
17 anybody at any time as to whether Jim Seery should be
18 named as a defendant in the lawsuit that was bought by
19 the DAF and CLO HoldCo against the debtor and others?

20 A. No.

21 MR. MORRIS: I have no further
22 questions. Thank you, Mr. Scott.

23 MR. BRIDGES: I don't have any
24 questions.

25 MR. KANE: Can I -- I've got a couple

1 Grant Scott

2 just follow-up for clarification purposes.

3 EXAMINATION

4 BY MR. KANE:

5 Q. Grant, earlier you were testifying about
6 resigning and noted -- I believe your testimony was
7 one of the reasons was an issue of independence. Can
8 you clarify what you meant by issue of independence?

9 A. I came to believe that there was a
10 perception, and my friendship with Jim Dondero
11 precluded my -- my independence.

12 Q. Perception by whom?

13 A. The judge in the case.

14 (Reporter clarification.)

15 A. The judge in the bankruptcy case.

16 Q. Was there a specific reason or instance
17 that caused you to have that belief?

18 A. Yes. When I spoke with you about the --

19 Q. Well, I don't want to go into any
20 attorney-client communications.

21 A. I am sorry.

22 Q. So let me ask you a different question.
23 Were you provided a transcript of the Court's ruling
24 on the escrow hearing for the registry dispute?

25 A. I believe so.

1 Grant Scott

2 Q. And did you read that transcript?

3 A. I believe we discussed it. I'm not -- I'm
4 not sure.

5 Q. Did you have a recollection that Judge
6 Jernigan made a comment or comments about you and
7 Jim Dondero during her ruling?

8 A. Yes.

9 Q. Do you believe that Judge Jernigan's
10 comments were inaccurate?

11 MR. MORRIS: Objection to the form of
12 the question. No foundation. Leading.

13 BY MR. KANE:

14 Q. I will rephrase. I will rephrase.

15 I will ask it -- a different question.

16 Mr. Scott, do you believe that you acted
17 independently during the bankruptcy case?

18 A. Yes.

19 Q. Do you believe you acted in the best
20 interests of CLO HoldCo?

21 A. Yes, I do.

22 MR. KANE: I'm done.

23 MR. MORRIS: Just some follow-up
24 questions, Mr. Scott.

25

1 Grant Scott

2 EXAMINATION

3 BY MR. MORRIS:

4 Q. Did you ever testify before Judge Jernigan?

5 A. I have not.

6 Q. So is it fair to say that you had no reason
7 to believe that she could ever access your credibility
8 as a witness?

9 MR. BRIDGES: I'm going to object.

10 That calls for a legal conclusion.

11 BY MR. MORRIS:

12 Q. You can answer.

13 A. From -- from what I understand from the
14 transcript of that hearing, a number of comments were
15 made by the judge regarding my independence, that sort
16 of thing, that made me -- that made me think that
17 maybe I could just remove that as an issue in the case
18 by resigning. That is essentially, what my conclusion
19 was from that hearing.

20 Q. But you didn't resign at the time that the
21 judge made those statements, did you?

22 MR. BRIDGES: Objection.

23 Argumentative.

24 BY MR. MORRIS:

25 Q. You can answer.

1 Grant Scott

2 A. I did not at that time.

3 Q. In fact, you didn't resign for probably
4 seven months after, correct?

5 MR. BRIDGES: Objection. Asked and
6 answered. Really?

7 THE WITNESS: Yes.

8 BY MR. MORRIS:

9 Q. And you continued to actively participate
10 in the bankruptcy case, correct?

11 A. That is correct.

12 Q. And months later, you made the decision to
13 amend CLO HoldCo's proof of claim, correct?

14 A. Correct.

15 Q. And months later, you made the decision to
16 file an objection to the HarbourVest settlement,
17 correct?

18 A. Correct.

19 Q. And months after this hearing, you made the
20 decision to withdraw that objection, correct?

21 MR. BRIDGES: Objection to repeating
22 the same questions from the last two hours
23 over and over again. Are we going to keep
24 going all the way to the end.

25 BY MR. MORRIS:

1 Grant Scott

2 Q. Only -- only if people keep opening the
3 door.

4 Can you please answer my question?

5 A. Yes, I removed the objection.

6 Q. And -- and you remained in the case, and
7 you remained active in the case, and you filed on
8 behalf of your -- withdrawn.

9 You stayed in the case even after
10 CLO HoldCo was sued by the debtor, correct?

11 A. Yes.

12 Q. And you stayed in the case long enough to
13 negotiate a settlement on behalf of CLO HoldCo with
14 the debtor, correct?

15 A. Correct.

16 Q. And you can't identify anything that the
17 judge said following the escrow hearing that had
18 anything to do with you personally, correct?

19 MR. KANE: Objection. Form.

20 MR. MORRIS: Withdrawn.

21 BY MR. MORRIS:

22 Q. Can you identify anything that the judge
23 said following the escrow hearing that had to do with
24 your independence?

25 A. I don't remember -- I'm -- what I'm telling

1 Grant Scott

2 you is -- let's just be clear here since I think the
3 point is -- is being missed. The issue of when I
4 wanted to resign or when I first thought about
5 resigning has been raised. It was raised during my
6 first deposition with you as well. And what I'm
7 saying is -- is that after I heard about the hearing,
8 and what was said, I don't remember the exact
9 language. My first reflection was, hey, maybe that
10 is -- maybe that is -- if I'm going to be in this
11 court having to make a claim, maybe it would be best
12 if it wasn't being made by me. That is all.

13 Q. And I appreciate that. And I am just
14 trying to test the credibility of that statement.
15 Okay?

16 MR. BRIDGES: Objection to the
17 sidebar.

18 BY MR. MORRIS:

19 Q. Did Judge Jernigan ever issue a ruling
20 against you personally?

21 MR. BRIDGES: Asked and answered.
22 Objection.

23 MR. MORRIS: It is not asked and
24 answered.

25 BY MR. MORRIS:

1 Grant Scott

2 Q. But go ahead, sir.

3 A. Not against me personally.

4 Q. Did Judge Jernigan ever issue a ruling
5 against CLO HoldCo Limited?

6 A. Well, to my --

7 MR. BRIDGES: Objection. Objection.

8 Calls for legal conclusion as to the
9 meaning of "against."

10 (Reporter clarification.)

11 THE WITNESS: The denial of the
12 escrow motion created a fairly big headache
13 for CLO HoldCo in the remainder of 2020.

14 So I believe that was a ruling
15 against CLO HoldCo, to answer your
16 question.

17 BY MR. MORRIS:

18 Q. Okay. Are you aware of any others?

19 MR. BRIDGES: Objection. Calls for a
20 legal conclusion as to the meaning of
21 "against."

22 BY MR. MORRIS:

23 Q. You can answer.

24 A. I don't know that she's made any other
25 rulings except to approve the settlement.

1 Grant Scott

2 Q. Which settlement are you referring to?

3 A. The -- the TRO settlement.

4 Q. And were you on the -- did you listen in to
5 the hearing during that hearing when -- when the judge
6 approved the settlement?

7 A. I did not.

8 Q. Did you read the transcript?

9 A. I did not.

10 Q. Did anybody ever tell you that the judge
11 said anything during that hearing to question your
12 independence?

13 MR. KANE: Objection to the extent it
14 calls for attorney/client privileged
15 information.

16 THE WITNESS: No. No, I think you
17 misunderstand. I had one data point to go
18 on, and that's what made me start the
19 process of thinking of resigning. That's
20 all.

21 BY MR. MORRIS:

22 Q. I appreciate that.

23 A. The issue -- the issue has been raised
24 repeatedly, whether it was my idea or somebody else's
25 idea, that's all I'm saying. If you can, it was my

1 Grant Scott

2 idea.

3 Q. Okay. And I'm asking you if you have any
4 other data points after that hearing to support the
5 notion that Judge Jernigan questioned your
6 independence?

7 A. No.

8 MR. MORRIS: I have no further
9 questions.

10 MR. BRIDGES: Me either.

11 MR. KANE: I'm done. Thank you.

12 Mr. Scott.

13 (Deposition adjourned at 4:42 p.m.)

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1 Grant Scott

2 REPORTER'S CERTIFICATE

3 I, LESHOUNDA CASS-BYRD, CSR No. B-2291, RPR,
4 Registered Professional Reporter, certify that the
5 foregoing proceedings were taken before me at the time
6 and place therein set forth, at which time the witness
7 was put under oath by me;

8 That the testimony of the witness, the questions
9 propounded, and all objections and statements made at
10 the time of the examination were recorded
11 stenographically by me and were thereafter
12 transcribed;

13 That the foregoing is a true and correct
14 transcript of my shorthand notes to taken.
15 I further certify that I am not a relative or employee
16 of any attorney or the parties, nor financially
17 interested in the action.

18 I declare under penalty of perjury under the laws
19 of North Carolina that the foregoing is true and
20 correct.

21 Dated this June 1, 2021.

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Leshounda Byrd

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LESHAUNDA CASS-BYRD, CCR-B-2291, RPR

25

ERRATA SHEET

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2 Case Name:

3 Deposition Date:

4 Deponent:

5 Pg. No. Now Reads Should Read Reason

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Signature of Deponent

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22 SUBSCRIBED AND SWORN BEFORE ME

23 THIS _____ DAY OF _____, 2021.

24 _____

25 (Notary Public) MY COMMISSION EXPIRES: _____

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WITNESS SIGNATURE: _____

* * * * *

State of _____

County of _____

Subscribed and sworn to before me this _____ day of
_____, 2021.

Notary Public

My Commission expires _____

(Seal)

1 Grant Scott

2 J U R A T

3 I, , do hereby certify under penalty of
4 perjury that I have read the foregoing transcript of
5 my deposition taken on; _____ that I have made
6 such corrections as appear noted herein in ink,
7 initialed by me; that my testimony as contained
8 herein, as corrected, is true and correct.

9 Dated this ____ day of _____, 2021, at

10 _____,

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14 SIGNATURE OF WITNESS

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